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Presidential Documents

Title 3—

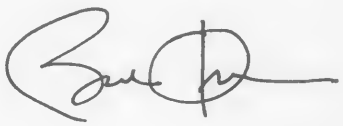
The President

Notice of August 12, 2011

Continuation of Emergency Regarding Export Control Regulations

On August 17, 2001, consistent with the authority provided to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the President issued Executive Order 13222. In that order, he declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on August 17, 2001, must continue in effect beyond August 17, 2011. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13222.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
August 12, 2011.

[FR Doc. 2011–20939
Filed 8–15–11; 8:45 am]
Billing code 3195–W1–P

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM09–23–000]

Revisions to Form, Procedures and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility

AGENCY: Federal Energy Regulatory Commission.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations which were published in the **Federal Register** of Tuesday, March 30, 2010. The final rule document adopted revisions to FERC Form 556 and to Commission procedures and criteria for the certification of qualifying facility status for a small power production or cogeneration facility.

DATES: August 16, 2011.

FOR FURTHER INFORMATION CONTACT: S.L. Higginbottom (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *Telephone:* 202–502–8561, *E-mail: samuel.higginbottom@ferc.gov.*

SUPPLEMENTARY INFORMATION: The final regulations amended 18 CFR 292.205 and affect the Commission's criteria and procedures for the certification of qualifying facility status for small power production or cogeneration facilities.

As published, the final regulations contained errors; they incorrectly removed paragraphs from 18 CFR 292.205(d). These paragraphs contain critical criteria for new cogeneration facilities.

List of Subjects in 18 CFR Part 292

Electric power, Electric power plants, Electric utilities.

Accordingly, 18 CFR part 292 is corrected by making the following correcting amendment:

Subchapter K—Regulations Under The Public Utility Regulatory Policies Act of 1978

PART 292—REGULATIONS UNDER SECTION 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

■ 1. The authority citation for part 292 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Section 292.205 is amended by adding paragraphs (d)(1) through (5) to read as follows:

§ 292.205 Criteria for qualifying cogeneration facilities.

* * * * *

(d) * * *

(1) The thermal energy output of the cogeneration facility is used in a productive and beneficial manner; and

(2) The electrical, thermal, chemical and mechanical output of the cogeneration facility is used fundamentally for industrial, commercial, residential or institutional purposes and is not intended fundamentality for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility.

(3) Fundamental use test. For the purpose of satisfying paragraph (d)(2) of this section, the electrical, thermal, chemical and mechanical output of the cogeneration facility will be considered used fundamentally for industrial, commercial, or institutional purposes, and not intended fundamentally for sale to an electric utility if at least 50 percent of the aggregate of such output, on an annual basis, is used for industrial, commercial, residential or institutional purposes. In addition, applicants for facilities that do not meet this safe harbor standard may present evidence to the Commission that the facilities should nevertheless be certified given state laws applicable to sales of electric energy or unique technological, efficiency, economic, and variable thermal energy requirements.

(4) For purposes of paragraphs (d)(1) and (2) of this section, a new cogeneration facility of 5 MW or smaller will be presumed to satisfy the requirements of those paragraphs.

(5) For purposes of paragraph (d)(1) of this section, where a thermal host existed prior to the development of a new cogeneration facility whose thermal output will supplant the thermal source previously in use by the thermal host, the thermal output of such new cogeneration facility will be presumed to satisfy the requirements of paragraph (d)(1).

Dated: August 9, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–20751 Filed 8–15–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 870 and 884

[Docket No. FDA–2010–N–0412]

Effective Date of Requirement for Premarket Approval for Three Class III Preamendments Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the following three class III preamendments devices: Ventricular bypass (assist) device; pacemaker repair or replacement material; and female condom. The Agency has summarized its findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet the statute's approval requirements and the benefits to the public from the use of the devices. This action implements certain statutory requirements.

DATES: This rule is effective August 23, 2011.

FOR FURTHER INFORMATION CONTACT: Michael Ryan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1615, Silver Spring, MD 20993–0002, 301–796–6283.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), and the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), among other amendments, established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices) are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807.

A preamendments device that has been classified into class III may be marketed by means of premarket notification procedures (510(k) process) without submission of a PMA until FDA issues a final regulation under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval. Section 515(b)(1) established the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or a notice of completion of a PDP until 90 days after FDA issues a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. Also, a preamendments device subject to the rulemaking procedure under section 515(b) is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final rule requiring the submission of a PMA for the device. At that time, an IDE is required only if a PMA has not been submitted or a PDP completed.

Section 515(b)(2)(A) of the FD&C Act provides that a proceeding to issue a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The regulation; (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device; (3) an opportunity for the submission of comments on the proposed rule and the proposed findings; and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the FD&C Act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change in reclassification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the FD&C Act. Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, issue a final rule to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

When a rule to require premarket approval for a preamendments device is finalized, section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or notice of completion of a PDP for any such device be filed within 90 days of the date of issuance of the final rule or 30 months after the final classification of the device under section 513 of the FD&C Act, whichever is later. If a PMA or notice of completion of a PDP is not filed by the latter of the two dates, commercial distribution of the device must cease since the device would be deemed adulterated under section 501(f).

The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or notice of completion of a PDP is not filed by the latter of the two dates, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act, and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334), if its distribution continues. Shipment of devices in interstate commerce will be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for the class III device that is the subject of this regulation.

The FD&C Act does not permit an extension of the 90-day period after issuance of a final rule within which an application or notice is required to be filed. The House Report on the 1976 amendments states that "* * * [t]he thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application of

premarket approval" (H. Rept. 94–853, 94th Cong., 2d sess. 42 (1976)).

The SMDA added section 515(i) to the FD&C Act requiring FDA to review the classification of preamendments class III devices for which no final rule requiring the submission of PMAs has been issued, and to determine whether or not each device should be reclassified into class I or class II or remain in class III. For devices remaining in class III, the SMDA directed FDA to develop a schedule for issuing regulations to require premarket approval. The SMDA does not, however, prevent FDA from proceeding immediately to rulemaking under section 515(b) of the FD&C Act on specific devices, in the interest of public health, independent of the procedures of section 515(i). Proceeding directly to rulemaking under section 515(b) of the FD&C Act is consistent with Congress' objective in enacting section 515(i), i.e., that preamendments class III devices for which PMAs have not been previously required either be reclassified to class I or class II or be subject to the requirements of premarket approval.

In the **Federal Register** of May 6, 1994 (59 FR 23731) (the May 6, 1994, notice), FDA issued a notice of availability of a preamendments class III devices strategy document. The strategy document set forth FDA's plans for implementing the provisions of section 515(i) of the FD&C Act for preamendments class III devices for which FDA had not yet required premarket approval. FDA divided this universe of devices into three groups as referenced in the May 6, 1994, notice.

In the **Federal Register** of August 25, 2010 (75 FR 52294) (the August 25, 2010, proposed rule), FDA published a proposed rule to require the filing under section 515(b) of the FD&C Act of a PMA or notice of completion of a PDP for four premendments class III devices: Ventricular (bypass) assist device; pacemaker repair or replacement material; female condom; and transilluminator for breast evaluation. In accordance with section 515(b)(2)(A) of the FD&C Act, FDA included in the preamble of the proposal the Agency's tentative findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirements of the FD&C Act, and the benefits to the public from use of the device. The August 25, 2010, proposed rule also provided an opportunity for interested persons to submit comments on the proposed rule and the Agency's findings. Under section 515(b)(2)(B) of the FD&C Act, FDA provided an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any petition requesting a change in classification of the devices was required to be submitted by September 9, 2010. The comment period closed November 23, 2010.

FDA received no comments on the proposed rule. FDA received one petition requesting a change in the classification of the transilluminator for breast evaluation. FDA has yet to resolve the request; therefore, the transilluminator for breast evaluation is not subject to this final rule.

II. Findings With Respect to Risks and Benefits

Under section 515(b)(3) of the FD&C Act, FDA is adopting its findings as published in the August 25, 2010, proposed rule with the exception of the findings related to the transilluminator for breast evaluation. As required by section 515(b) of the FD&C Act, FDA published its findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that these devices have an approved PMA or a declared completed PDP and (2) the benefits to the public from the use of the devices.

These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted in response to the 515(i) Order, (74 FR 16214, April 9, 2009), and any additional information that FDA has encountered. Additional information regarding the risks as well as classification associated with these device types can be found in the following proposed and final rules published in the **Federal Register** on these dates: Cardiovascular Devices—part 870 (21 CFR part 870) (44 FR 13284, March 9, 1979 and 45 FR 7904, February 5, 1980, 52 FR 17732 at 17736, May 11, 1987); and Obstetrical and Gynecological Devices—part 884 (21 CFR part 884) (64 FR 31164, June 10, 1999, and 65 FR 31454, May 18, 2000).

III. The Final Rule

Under section 515(b)(3) of the FD&C Act, FDA is adopting its findings as published in the preamble to the proposed rule with the exception of the findings related to the transilluminator for breast evaluation. FDA is issuing this final rule to require premarket approval of these generic types of devices for class III preamendments devices by revising parts 870 and 884.

Under the final rule, a PMA or a notice of completion of a PDP is required to be filed on or before 90 days after the date of publication of the final rule in the **Federal Register**, for any of these class III preamendments devices that were in commercial distribution before May 28, 1976, or that has been found by FDA to be substantially equivalent to such a device on or before 90 days after the date of publication of the final rule in the **Federal Register.** An approved PMA or a declared completed PDP is required to be in effect for any such devices on or before 180 days after FDA files the application. Any other class III preamendments device subject to this rule that was not in commercial distribution before May 28, 1976, is required to have an approved PMA or a declared completed PDP in effect before it may be marketed.

If a PMA or a notice of completion of a PDP for any of these class III preamendments devices is not filed on or before the 90th day past the effective date of this regulation, that device will be deemed adulterated under section 501(f)(1)(A) of the FD&C Act, and commercial distribution of the device will be required to cease immediately. The device may, however, be distributed for investigational use, if the requirements of the IDE regulations (part 812) are met.

IV. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this final rule is not a significant regulatory action under Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because there have been no premarket submissions for these devices in the past 5 years and all of the affected devices have fallen into disuse, FDA has

concluded that there is little or no interest in marketing these devices in the future. Therefore, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $136 million, using the most current (2010) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

FDA has concluded that this final rule will not have a significant impact. We base this determination on an analysis of registration and listing and other data for the affected devices. Two of the devices affected by this final rule, the female condom and ventricular bypass device, have never appeared in FDA's electronic registration and listing database. These devices were identified as preamendment devices, but since their classification, the Agency has no record of them ever being marketed. In addition, these devices represent older technologies that have since been replaced by newer technologies currently being marketed under a PMA.

The final affected device, pacemaker repair and replacement material, is a material that can be used in multiple devices that was last listed in 2001, and the Agency is aware of no evidence that the device has been marketed since 1991. In addition, on the increasingly rare occasions when a pacemaker is repaired today, the repair is done with materials specific to the approved device. This information is summarized in table 1 of this document as follows.

TABLE 1—SUMMARY OF ELECTRONIC REGISTRATION AND LISTING INFORMATION

Device name	Product code	510(k) or PMA?	Last listed	Last marketed	Replaced by approved technology?
Female Condom	OBY	No	Never Listed	1930s	Yes.
Ventricular Bypass Device	OKR	No	Never Listed	No Record	Yes.
Pacemaker Repair and Replacement	KFJ	No	2001	1991	Yes.

Based on our review of electronic product registration and listing and other data, FDA concludes that there is currently little or no interest in marketing the affected devices and that the final rule will not have a significant economic impact.

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Paperwork Reduction Act of 1995

This final rule refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, have been approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Parts 870 and 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 870 and 884 are amended as follows:

PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 870.3545 is amended by revising paragraph (c) to read as follows:

§ 870.3545 Ventricular bypass (assist) device.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before November 21, 2011, for any ventricular bypass (assist) device that was in commercial distribution before May 28, 1976, or that has, on or before November 21, 2011, been found to be substantially equivalent to any ventricular bypass (assist) device that was in commercial distribution before May 28, 1976. Any other ventricular bypass (assist) device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

■ 3. Section 870.3710 is amended by revising paragraph (c) to read as follows:

§ 870.3710 Pacemaker repair or replacement material.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before November 21, 2011, for any pacemaker repair or replacement material device that was in commercial distribution before May 28, 1976, or that has, on or before November 21, 2011, been found to be substantially equivalent to any pacemaker repair or replacement material device that was in commercial distribution before May 28, 1976. Any other pacemaker repair or replacement material device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

■ 4. The authority citation for 21 CFR part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 5. Section 884.5330 is amended by revising paragraph (c) to read as follows:

§ 884.5330 Female condom.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before November 21, 2011, for any female condom that was in commercial distribution before May 28, 1976, or that has, on or before November 21, 2011, been found to be substantially equivalent to any female condom that was in commercial distribution before May 28, 1976. Any other female condom shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: August 10, 2011.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2011–20664 Filed 8–15–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0708]

RIN 1625–AA11

Regulated Navigation Area; Portsmouth Naval Shipyard, Portsmouth, NH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area on the Piscataqua River near Portsmouth, NH. This temporary final rule places speed restrictions on all vessels transiting the navigable waters on the Piscataqua River, Portsmouth, NH near the Portsmouth Naval Shipyard between Henderson Point Light on Seavey Island and Badgers Island Buoy 14. This rule is necessary to provide for the safety of life on the navigable waters during ongoing ship construction.

DATES: This rule is effective from August 16, 2011 until 5 p.m. on September 5, 2011. This rule will be enforced with actual notice from 7 a.m. on August 5, 2011 until 5 p.m. on September 5, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0708 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0708 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant Junior Grade Terence Leahy, Waterways Management Division at Coast Guard Sector Northern New England, telephone 207–767–0398, e-mail *Terence.O.Leahy@uscg.mil* or Lieutenant Junior Grade Isaac Slavitt, Waterways Management Division at Coast Guard First District, telephone 617–223–8385. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard was not notified of the need for this rule until 13 July 2011, and the Portsmouth Naval Facility will begin diving operations in this area within a short timeframe making publication of a NPRM and Final Rule impractical. This regulated navigation area is necessary to provide for the safety of the divers and others working in the area as wake from passing vessels could cause the ship to move erratically and unexpectedly, injuring the divers and their support crews. Not providing for the safety of the divers and others in the area is contrary to the public interest of creating a safe work environment.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** as immediate action is necessary to provide for the safety of divers and workers on the vessel. In addition to the reasons stated within this preamble, a delay in the effective date of this rule is contrary to the public's interest in ensuring the ship construction project continues as scheduled.

Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231 and Department of Homeland Security Delegation No. 0170.1.

As part of ongoing ship construction projects at the Portsmouth Naval Shipyard, divers will be working on the hull of a vessel for approximately four weeks beginning on August 5, 2011. Unexpected and uncontrolled movement of the vessel due to wake while divers are in the water creates a significant risk of serious injury or death. In order to ensure the safety of vessel workers such as divers during the period of ship construction work, the Coast Guard is creating a regulated navigation area to limit the speed, and thus wake, of all vessels operating in the vicinity of the shipyard.

Discussion of Rule

This action places speed restrictions on all vessels transiting the navigable waters on the Piscataqua River, Portsmouth, NH near the Portsmouth Naval Shipyard between Henderson Point Light on Seavey Island and Badgers Island Buoy 14 when necessary for the safety of navigation during periods of ship construction work. All vessels operating in this area shall proceed with caution; operate at no more than 5 knots and in a manner so as to produce no wake. Diving operations and other vessel construction may occur at any time, day or night.

The Captain of the Port Sector Northern New England will cause notice of enforcement or suspension of enforcement of this regulated navigation area to be made by all appropriate means in order to affect the widest distribution among the affected segments of the public. Such means of notification will include, but is not limited to, Broadcast Notice to Mariners

and Local Notice to Mariners. In addition, Captain of the Port Sector Northern New England maintains a telephone line that is staffed 24 hours a day, seven days a week. The public can obtain information concerning enforcement of the regulated navigation area by contacting Sector Northern New England Command Center at (207) 767–0303.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the portion of the Piscataqua River affected by this rule between August 5, 2011 and September 5, 2011.

This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: This rule allows vessels to continue to transit through the regulated area, but only at a reduced speed. The reduced speed area is relatively small (approximately 1 nautical mile long) and will only be enforced when necessary to protect the safety of personnel at the Portsmouth Naval Shipyard. Further, the Coast Guard will advise mariners as to the enforcement of the regulated navigation area through broadcast and local notice to mariners thus allowing mariners to plan their transits accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management

systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishing of a regulated navigation area and therefore falls within the categorical exclusion noted above. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0708 to read as follows:

§ 165.T01–0708 Regulated Navigation Area; Portsmouth Naval Base, Portsmouth, NH.

(a) *Location.* The following area is a regulated navigation area: All navigable waters on the Piscataqua River, Portsmouth, NH and Kittery, ME near the Portsmouth Naval Shipyard between 43°04′29.319″ N, 070°44′10.189″ W (Henderson Point Light 10, LLNR 8375) on Seavey Island and 43°04′51.951″ N, 070°45′21.518″ W (Badgers Island Buoy 14, LLNR 8405).

(b) *Regulations:* (1) The general regulations contained in 33 CFR 165.10, 165.11 and 165.13 apply.

(2) In accordance with the general regulations, the following restrictions apply to all vessels operating within the regulated area noted above.

(i) No vessel may operate in this regulated area at a speed in excess of five knots.

(ii) All vessels must proceed through the area with caution and operate in such a manner as to produce no wake.

(iii) Vessels operating within the regulated navigation area must comply with all directions given to them by the Captain of the Port Sector Northern New England or his on-scene representative. The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, State Marine Patrol vessel or other designated craft, or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary or Naval Harbor Security Patrol may be present to inform vessel operators of this regulation.

(iv) For purposes of navigational safety, the Captain of the Port or on-scene representative may authorize a deviation from this regulation.

(c) *Enforcement.* (1) This regulated navigation area is enforceable 24 hours a day from August 5, 2011 until September 5, 2011.

(2) Notice of suspension of enforcement: The Captain of the Port Sector Northern New England may temporarily suspend enforcement of the regulated navigation area. If enforcement of the zone is temporarily suspended, the Captain of the Port Sector Northern New England will cause a notice of the suspension of enforcement of this regulated navigation area to be made by all appropriate means to affect the widest publicity among the affected segments of the public. Such means of notification may also include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. Such notification will include the date and time that enforcement is suspended as well as the date and time that enforcement will resume.

(3) Violations of this regulated navigation area should be reported to the Captain of the Port Sector Northern New England, at (207) 767–0303 or on VHF–Channel 16. Persons in violation of this regulated navigation area may be subject to civil and/or criminal penalties.

Dated: August 5, 2011.

Daniel A. Neptun,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2011–20770 Filed 8–15–11; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0559]

RIN 1625–AA00

Safety Zones; Eleventh Coast Guard District Annual Fireworks Events

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending multiple permanent safety zones to ensure public safety during annual firework displays at various locations in the Eleventh Coast Guard District. These amendments will standardize the safety zone language, update listed events, delete events that are no longer occurring, add new unlisted annual fireworks events to the regulations, and standardize the format for all tables in these four sections. When these safety zones are activated, and thus subject to enforcement, this rule would limit the movement of vessels within the established firework display area.

DATES: This rule is effective September 15, 2011.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0559 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0559 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Lucas Mancini, Eleventh Coast Guard District Prevention Division, Waterways Management Branch, Coast Guard; telephone 510–437–3801, e-mail *Lucas.W.Mancini@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V.

Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 9, 2011, we published a notice of proposed rulemaking (NPRM) entitled Eleventh Coast Guard District Annual Marine Events, in the **Federal Register** (76 FR 27). On May 26, 2011, we published a supplemental notice of proposed rulemaking (SNPRM) of the same title to add clarifying language to the proposed rule (76 FR 30584). We received no comments on either the NPRM or the SNPRM or a request for public meeting. A public meeting was not held.

Background and Purpose

Firework displays are held annually on a recurring basis on the navigable waters within the Eleventh Coast Guard District. Many of the annual firework events requiring safety zones do not currently reflect changes in actual dates and other required information. These safety zones are necessary to provide for the safety of the crew, spectators, participants of the event, participating vessels, and other users and vessels of the waterway from the hazards associated with firework displays. This rule will also provide the public current information on safety zone locations, size, and length of time the zones will be active.

The effect of these safety zones will be to restrict general navigation in the vicinity of the events, from the start of each event until the conclusion of that event. These areas will be patrolled at the discretion of the Coast Guard. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to keep spectators and vessels a safe distance away from the firework displays to ensure the safety of participants, spectators, and transiting vessels.

33 CFR 165.1191 has not been updated recently and §§ 165.1123, 165.1124, and 165.1125 need to be added. In addition, information for those events that continue to occur has changed in some cases and requires updating. Also, there are minor corrections required in the regulatory text. Finally, amending the text will create standardization with the regulations.

Discussion of Rule

The Coast Guard is revising 33 CFR 165.1191, and adding 33 CFR 165.1123, 165.1124, 165.1125. These amendments are necessary to provide the public with current information on the annual firework displays occurring within the Eleventh Coast Guard District. 33 CFR 165.1191 is revised to conform existing regulatory language for regulations establishing permanent safety zones for annual firework events within the Eleventh Coast Guard District. The Coast Guard is adding 33 CFR 165.1123, 165.1124, and 165.1125 to establish safety zones for annual firework events in two Southern California Captain of the Port Zones, and on the Colorado River between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona).

Table 1 for each of the listed sections will be updated or added as follows: update with current information existing events, add previously unlisted events, and delete listed events that the Coast Guard has been unable to verify as continuing.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This rule is not a significant regulatory action because the regulations exist for a limited period of time on a limited portion of the waterways. Further, individuals and vessels desiring to use the affected portion of the waterways may seek permission from the Patrol Commander to use the affected areas.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

We expect this rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to fish, transit, or anchor in the waters affected by these special local regulations. These special local regulations will not have a significant economic impact on a substantial number of small entities for the following reasons: Small vessel traffic will be able to pass safely around the area and vessels engaged in event activities, sightseeing and commercial fishing have ample space outside of the area governed by the special local regulations to engage in these activities. Small entities and the maritime public will be advised of implementation of these special local regulations via public notice to mariners or notice of implementation published in the **Federal Register**.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Lucas Mancini, Eleventh Coast Guard District Prevention Division, Waterways Management Branch, Coast Guard; telephone 510–437–3801, e-mail *Lucas.W.Mancini@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or

impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards. We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph 34(g), of the Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1123 to read as follows:

§ 165.1123 Southern California Annual Firework Events for the San Diego Captain of the Port Zone.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF–FM Channel 13 (156.65MHz) or 16 (156.8MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1123

[All coordinates referenced use datum NAD 83.]

1. San Diego, CA POPS Fireworks Display	
Sponsor	Fireworks America.
Event Description	Fireworks Display.
Date	Friday/Saturday/Sunday Last weekend of June through first weekend of September.
Location	San Diego Bay South Embarcadero.
Regulated Area	800-foot radius safety zone around tug/barge combination.
2. Fourth of July Fireworks, Mission Bay	
Sponsor	Mission Bay 4th of July Fireworks.
Event Description	Fireworks Display.
Date	The first week in July.
Location	Mission Bay/Paradise Point and Sail Bay, CA.
Regulated Area	800-foot radius safety zone around tug/barge combination.
3. Coronado Fourth of July Fireworks	
Sponsor	Coronado, CA.
Event Description	Fireworks Display.
Date	The first week in July.
Location	Glorietta Bay, CA.
Regulated Area	All navigable waters of San Diego Bay in San Diego, CA within a 1200 foot radius of the fireworks barge located at approximately 32°40′41″ N, 117°10′11″ W. Note: This will result in no through vessel traffic of Glorietta Bay for the duration of the fireworks display.
4. San Diego Parade of Lights Fireworks Display	
Sponsor	Greater Shelter Island Association.
Event Description	Boat Parade.
Date	December.
Location	San Diego Harbor.
Regulated Area	The northern portion of the San Diego Main Ship Channel from Seaport Village to the Shelter Island Basin. (Note: see also 33 CFR 100.1101, Table 1, number 5 for related marine event.)

■ 3. Add § 165.1124 to read as follows:

§ 165.1124 Annual Firework Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona) within the San Diego Captain of Port Zone.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF–FM Channel 13 (156.65MHz) or 16 (156.8MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1124

[All coordinates referenced use datum NAD 83.]

1. Avi Resort & Casino Memorial Day Fireworks	
Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	Sunday before Memorial Day.
Location	Laughlin, NV.

TABLE 1 TO § 165.1124—Continued

[All coordinates referenced use datum NAD 83.]

Regulated Area	River closure from 8pm–10pm. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01′05″ N, 114°38′20″ W; 35°01′05″ N, 114°38′15″ W; along the shoreline to 35°00′50″ N, 114°38′13″ W; 35°00′49″ N, 114°38′18″ W; along the shoreline to 35°01′05″ N, 114°38′20″ W.

2. Rockets Over the River

Sponsor	Laughlin Tourism Committee.
Event Description	Fireworks Display
Date	First week in July.
Location	Laughlin, NV.
Regulated Area	The temporary safety zone is specifically defined as all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°09′53″ N, 114°34′15″ W; 35°09′53″ N, 114°34′07″ W; along the shoreline to 35°09′25″ N, 114°34′09″ W; 35°09′06″ N, 114°34′17″ W; along the shoreline to 35°09′53″ N, 114°34′15″ W.

3. Avi Resort & Casino Fourth of July Fireworks

Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	First week in July.
Location	Laughlin, NV.
Regulated Area	River closure from 8pm–10pm. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01′05″ N, 114°38′20″ W; 35°01′05″ N, 114°38′14″ W; along the shoreline to 35°00′50″ N, 114°38′13″ W; 35°00′49″ N, 114°38′18″ W; along the shoreline to 35°01′05″ N, 114°38′20″ W.

4. Avi Resort & Casino Labor Day Fireworks

Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	Sunday before Labor Day.
Location	Laughlin, NV.
Regulated Area	River closure from 8pm–10pm. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01′05″ N, 114°38′20″ W; 35°01′05″ N, 114°38′15″ W; along the shoreline to 35°00′20″ N, 114°38′13″ W; 35°00′49″ N, 114°38′18″ W; along the shoreline to 35°01′05″ N, 114°38′20″ W.

■ 4. Add § 165.1125 to read as follows:

§ 165.1125 Southern California Annual Firework Events for the Los Angeles Long Beach Captain of the Port zone.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative; and will be located aboard the lead official patrol vessel. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF–FM Channel 13 (156.65MHz) or 16 (156.8MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of commercial vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1125

[All coordinates referenced use datum NAD 83.]

1. Cambria American Legion Post Fourth of July Fireworks

Sponsor	Cambria American Legion Post.
Event Description	Fireworks Display.
Date	July 4th.
Location	Shamel Beach, Cambria, CA.

TABLE 1 TO § 165.1125—Continued

[All coordinates referenced use datum NAD 83.]

Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
2. LA County Dept of Beach and Harbors 4th of July Fireworks	
Sponsor	Los Angeles, CA County Dept of Beach and Harbors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Main Ship Channel of Marina Del Rey, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
3. Fourth of July Fireworks, City of Dana Point	
Sponsor	City of Dana Point, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Dana Point Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
4. Fourth of July Fireworks, City of Long Beach	
Sponsor	City of Long Beach, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Long Beach Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
5. Fourth of July Fireworks, Irvine Cove Community Association	
Sponsor	Irvine Cove Community Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Laguna Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
6. Fourth of July Fireworks, Emerald Bay Community Association	
Sponsor	Emerald Bay Community Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Laguna Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
7. Fourth of July Fireworks, Morro Bay CoC	
Sponsor	Morro Bay Chamber of Commerce.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Morro Bay State Park.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
8. Fourth of July Fireworks, Catalina Island CoC	
Sponsor	Catalina Island Chamber of Commerce.
Event Description	Fireworks Display.
Date	July 4th.
Location	Avalon Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

TABLE 1 TO § 165.1125—Continued

[All coordinates referenced use datum NAD 83.]

9. Fourth of July Fireworks, City of Santa Barbara	
Sponsor	City of Santa Barbara, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Harbor Entrance of Santa Barbara, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
10. Fourth of July Fireworks, City of Faria	
Sponsor	City of Faria, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Faria Beach, CA
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
11. Fourth of July Fireworks, City of Redondo Beach	
Sponsor	City of Redondo Beach, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Redondo Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
12. Fourth of July Fireworks, City of San Pedro	
Sponsor	City of San Pedro, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Cabrillo Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
13. Fourth of July Fireworks, City of Cayucos	
Sponsor	City of Cayucos, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Cayucos Pier.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

■ 5. Revise § 165.1191 to read as follows:

§ 165.1191 Northern California and Lake Tahoe Area Annual Fireworks Events.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative; and will be located aboard the lead official patrol vessel. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF–FM Channel 13 (156.65MHz) or 16 (156.8MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of commercial

vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1191

[All coordinates referenced use datum NAD 83.]

1. San Francisco Giants Fireworks Display	
Sponsor	San Francisco Giants Baseball Team.
Event Description	Fireworks display in conjunction with baseball season home games.
Date	All season home games at AT&T Park.
Location	1,000 feet off of Pier 48.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
2. KFOG KaBoom	
Sponsor	KFOG Radio, San Francisco, CA.
Event Description	Fireworks Display.
Date	Second or Third Saturday in May.
Location	1,200 feet off Candlestick Point, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
3. Fourth of July Fireworks, City of Eureka	
Sponsor	City of Eureka, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Humboldt Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
4. Fourth of July Fireworks, Crescent City	
Sponsor	Crescent City, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Crescent City Harbor.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
5. Fourth of July Fireworks, City of Monterey	
Sponsor	City of Monterey, CA: Recreation & Community Services Department.
Event Description	Fireworks Display.
Date	July 4th.
Location	Monterey Bay, CA: East of Municipal Wharf #2.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
6. Light up the Sky Fireworks Display/Pillar Point Harbor Fireworks	
Sponsor	Various sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Half Moon Bay, CA.
Regulated Area	Pillar Point Harbor within the area of navigable waters within a 1,000-foot radius of the launch platform located on the harbor break wall.
7. Peninsula Fireworks Spectacular, Redwood City	
Sponsor	Peninsula Celebration Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Redwood City, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83.]

8. San Francisco Independence Day Fireworks Display	
Sponsor	The City of San Francisco, CA and the Fisherman's Wharf Association.
Event Description	Fireworks Display.
Date	July 4th.
Location 1	A barge located approximately 1000 feet off San Francisco Pier 39 at approximately 37°48′49″ N, 122°24′46″ W.
Location 2	The end of the San Francisco Municipal Pier at Aquatic Park at approximately 37°48′38″ N, 122°24′30″ W.
Regulated Area 1	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
Regulated Area 2	The area of navigable waters within a 1,000-foot radius of the launch platform located on the Municipal Pier.
9. Jack London Square Fourth of July Fireworks	
Sponsor	Jack London Square Business Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Oakland Inner Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
10. Fourth of July Fireworks, Berkley Marina	
Sponsor	Berkeley Marina.
Event Description	Fireworks Display.
Date	July 4th.
Location	Berkeley Pier, CA
Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on the Berkeley Pier.
11. Fourth of July Fireworks, City of Richmond	
Sponsor	City of Richmond.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Richmond Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
12. Fourth of July Fireworks, City of Sausalito	
Sponsor	City of Sausalito.
Event Description	Fireworks Display.
Date	July 4th.
Location	1,000 feet off-shore from Sausalito, CA waterfront, north of Spinnaker Restaurant.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
13. Fourth of July Fireworks, City of Martinez	
Sponsor	City of Martinez.
Event Description	Fireworks Display.
Date	July 4th.
Location	Carquinez Strait, CA
Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on a Martinez Marina Pier.
14. Fourth of July Fireworks, City of Antioch	
Sponsor	City of Antioch.
Event Description	Fireworks Display.
Date	July 4th.
Location	San Joaquin River, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the moving fireworks display.
15. Fourth of July Fireworks, City of Pittsburg	
Sponsor	City of Pittsburg.
Event Description	Fireworks Display.
Date	July 4th.
Location	Suisun Bay, CA.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83.]

Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on a Pittsburg Marina Pier.
16. Independence Day Celebration, City of Stockton	
Sponsor	City of Stockton.
Event Description	Fireworks Display.
Date	July 4th.
Location	Stockton, CA Deep Water Ship Channel.
Regulated Area	The area of navigable waters from the Port of Stockton to Mcleod Lake; beginning at 37°57′06″ N, 121°19′35″ W, then north to 37°57′10″ N, 121°19′36″ W, then north-east 37°57′24″ N, 121°17′35″ W, south-west 37°57′15″ N, 121°17′41″ W, then south-east 37°57′14″ N, 121°17′31″ W, and then back to the beginning point.
17. Hilton Fourth of July Fireworks	
Sponsor	Hilton Corporation.
Event Description	Fireworks Display.
Date	July 4th.
Location	San Joaquin River, near Venice Island, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
18. Fourth of July Fireworks Display, Tahoe City, CA	
Sponsor	Tahoe City Rotary.
Event Description	Fireworks Display.
Date	July 4th.
Location	Off-shore from Common Beach, Tahoe City, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
19. Fourth of July Fireworks Display, Glenbrook NV	
Sponsor	Glenbrook Community Homeowners Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Off-shore Glenbrook Beach, NV.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
20. Independence Day Fireworks, Kings Beach, CA	
Sponsor	North Tahoe Business Association.
Event Description	Fireworks Displays.
Date	Week of July 4th.
Location	Off-shore from Kings Beach, CA
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
21. "Lights on the Lake" Fourth of July Fireworks, South Lake Tahoe, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Off South Lake Tahoe, CA near the NV Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
22. Red, White, and Tahoe Blue Fireworks, Incline Village, NV	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	500–1,000 feet off Incline Village, NV in Crystal Bay.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83.]

23. Independence Day Fireworks Display, Homewood, CA	
Sponsor	Westshore Café.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Homewood, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
24. "Labor Day Fireworks Display," South Lake Tahoe, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Labor Day.
Location	Off South Lake Tahoe, California near the Nevada Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
25. Fleet Week Fireworks	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Second Friday and Saturday in October.
Location	1,000 feet off Pier 3, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
26. Monte Foundation Fireworks	
Sponsor	Monte Foundation Fireworks.
Event Description	Fireworks Display.
Date	Second Saturday in October.
Location	Sea Cliff State Beach Pier in Aptos, CA.
Regulated Area	1,000-foot safety zone around the navigable waters of the Sea Cliff State Beach Pier.
27. Rio Vista Bass Derby Fireworks	
Sponsor	Rio Vista Chamber of Commerce.
Event Description	Fireworks Display.
Date	Second Saturday in October.
Location	500 feet off Rio Vista, CA waterfront.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
28. San Francisco New Years Eve Fireworks Display	
Sponsor	City of San Francisco.
Event Description	Fireworks Display.
Date	New Years Eve, December 31st.
Location	1,000 feet off Pier 2, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
29. Sacramento New Years Eve Fireworks Display	
Sponsor	Sacramento Convention and Visitors' Bureau.
Event Description	Fireworks Display.
Date	New Years Eve, December 31st.
Location	Near Tower Bridge, Sacramento River.
Regulated Area	The navigable waters of the Sacramento River surrounding the shore-based launch locations between two lines drawn 1,000 feet south of Tower Bridge, and 1,000 feet north of the I Street Bridge.

Dated: July 19, 2011.

J.R. Castillo,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 2011–20761 Filed 8–15–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2011–0264]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in Milwaukee Harbor, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce this safety zone for annual fireworks events in the Captain of the Port, Sector Lake Michigan zone at various times from 9:15 p.m. on September 9, 2011 through 10:30 p.m. on September 10, 2011. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after fireworks events. This rule will establish restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after fireworks events. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port, Sector Lake Michigan.

DATES: The regulations in 33 CFR 165.935 will be enforceable at various times between 9:15 p.m. on September 9, 2011 and 10:30 p.m. on September 10, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email BM1 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at 414–747–7154, e-mail *Adam.D.Kraft@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.935, Safety Zones, Milwaukee Harbor, Milwaukee, WI, for the following events:

(1) *Indian Summer fireworks display* on September 9, 2011 from 9:15 p.m. through 10 p.m.; on September 10, 2011 from 9:45 p.m. through 10:30 p.m.

All vessels must obtain permission from the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Sector Lake Michigan, or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.935 Safety Zone, Milwaukee Harbor, Milwaukee, WI and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Sector Lake Michigan, will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. If the Captain of the Port, Sector Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF–FM Channel 16.

Dated: July 29, 2011.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2011–20768 Filed 8–15–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2010–0039; 92220–1113–000; ABC Code: C6]

RIN 1018–AW62

Endangered and Threatened Wildlife and Plants; Removal of the Lake Erie Watersnake (Nerodia sipedon insularum) From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; notice of availability of final post-delisting monitoring plan.

SUMMARY: Under the authority of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), are removing the Lake Erie watersnake (*Nerodia sipedon insularum*) from the Federal List of Endangered and Threatened Wildlife due to recovery. This action is based on a review of the best available scientific and commercial data, which indicate that the subspecies is no longer endangered or threatened with extinction, or likely to become so within the foreseeable future.

DATES: This rule becomes effective September 15, 2011.

ADDRESSES: This final rule is available on the Internet at: *http://www.regulations.gov* and *http://www.fws.gov/endangered*. Supporting documentation used in preparing this final rule will be available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Ohio Ecological Services Field Office, 4625 Morse Road, Suite 104, Columbus, Ohio 43230.

FOR FURTHER INFORMATION CONTACT: Mary Knapp, Field Office Supervisor, or Megan Seymour, Wildlife Biologist, U.S. Fish and Wildlife Service, Ohio Ecological Services Field Office, 4625 Morse Road, Suite 104, Columbus, Ohio 43230 (telephone 614–416–8993). Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at (800) 877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

The Lake Erie watersnake is a subspecies of the Northern watersnake (*N. sipedon sipedon*) that occurs primarily on the offshore islands of western Lake Erie in Ohio and Ontario, Canada, but also on a small portion of the United States (U.S.) mainland on the Catawba and Marblehead peninsulas of Ottawa County, Ohio (Conant and Clay 1937, p. 2; King 1986, p. 760). Lake Erie watersnakes are uniformly gray or brown, and have either no banding pattern, or have blotches or banding that are either faded or reduced (Conant and Clay 1937, pp. 2–5; Camin and Ehrlich 1958, p. 504; King 1987, pp. 243–244). Female Lake Erie watersnakes grow up to 1.1 meters (m) (3.5 feet (ft)), long, and are larger than males (King 1986, p. 762). Newborn Lake Erie watersnakes are the size of a pencil, and are born during late summer or early fall (King 1986, p. 764).

Lake Erie watersnakes are distinct from Northern watersnakes in their reduced or absent banding patterns (Conant and Clay 1937, pp. 2–5; Camin and Ehrlich 1958, p. 504; King 1987, pp. 243–244), use of substrates dominated by limestone or dolomite (Conant and Clay 1937, p. 6; King 1986, p.760), diet composition (Hamilton 1951, pp. 64–65), larger body size (King 1989, pp. 85–86), lower growth rates (King 1986,

p. 770), and shorter tails (King 1986, p. 768).

Lake Erie watersnake summer habitat is composed of rocky shorelines with limestone or dolomite shelves, ledges, or boulders for sunning and shelter. Shelter occurs in the form of loose rocks, piled rocks, or shelves and ledges with cracks, crevices, and nearby vegetation. Rip-rap erosion control, armor stone, and docks incorporating a stone crib structure often serve as summer habitat for the snake. Lake Erie watersnakes typically forage for fish and amphibians in Lake Erie, and research indicates that more than 90 percent of their current diet is composed of the nonnative, invasive fish round goby (*Neogobius melanostomus*) (King *et al.* 2006b, p. 110). Jones *et al.* (2009, p. 441) report that the mean foraging distance from shore is 85 m (279 ft) and the average water depth of the foraging locations is 3.32 m (10.9 ft). Data from 56 radio-tracked adult Lake Erie watersnakes indicate that during the summer, 75 percent of this population ranged within 13 m (42.7 ft) of the water's edge (King 2003, p.4). King (2003, p. 4) identified that 75 percent of the 56 radio-tracked Lake Erie watersnakes used 437 m (1433 ft) of shoreline or less as a home range. In the winter, Lake Erie watersnakes hibernate below the frost level, in cracks or crevices in the bedrock, interstitial spaces of rocky substrates, tree roots, building foundations, and other similar natural and human-made structures. Seventy-five percent of 49 radio-tracked Lake Erie watersnakes hibernated within 69 m (226 ft) of the water's edge (King 2003, p. 4). Individual snakes often demonstrated site fidelity, returning to the same shoreline area and the same or nearby hibernacula in successive years (King 2003, pp. 4, 11–17).

Additional information on the Lake Erie watersnake's life history and biology can be found in the final listing rule (64 FR 47126; August 30, 1999) and the Lake Erie Watersnake (*Nerodia sipedon insularum*) Recovery Plan (Service 2003a, pp. 6–11).

Previous Federal Actions

On June 1, 2010, we published a proposed rule to remove the Lake Erie watersnake from the Federal List of Endangered and Threatened Wildlife (75 FR 30319). We solicited data and comments from the public on the proposed rule. The comment period opened on June 1, 2010 and closed on August 2, 2010. We discuss the comments received later in this document. For more information on previous Federal actions concerning the Lake Erie watersnake, please refer to the proposed rule published in the **Federal Register** on June 1, 2010 (75 FR 30319).

Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. The Act directs that, to the maximum extent practicable, we incorporate into each plan:

(1) Site-specific management actions that may be necessary to achieve the plan's goals for conservation and survival of the species;

(2) Objective, measurable criteria, which when met would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the list; and

(3) Estimates of the time required and cost to carry out the plan.

However, revisions to the list (adding, removing, or reclassifying a species) must reflect determinations made in accordance with sections 4(a)(1) and 4(b) of the Act. Section 4(a)(1) requires that the Secretary determine whether a species is endangered or threatened (or not) because of one or more of five threat factors. Therefore, recovery criteria must indicate when a species is no longer endangered or threatened by any of the five factors. In other words, objective, measurable criteria, or recovery criteria contained in recovery plans, must indicate when we would anticipate an analysis of the five threat factors under section 4(a)(1) would result in a determination that a species is no longer endangered or threatened. Section 4(b) of the Act requires that the determination be made "solely on the basis of the best scientific and commercial data available."

Thus, while recovery plans are intended to provide guidance to the Service, States, and other partners on methods of minimizing threats to listed species and on criteria that may be used to determine when recovery is achieved, they are not regulatory documents and cannot substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. Determinations to remove a species from the list made under section 4(a)(1) of the Act must be based on the best scientific and commercial data available at the time of the determination, regardless of whether that information differs from the recovery plan.

In the course of implementing conservation actions for a species, new information is often gained that requires recovery efforts to be modified accordingly. There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more recovery criteria may have been exceeded while other criteria may not have been accomplished, yet the Service may judge that, overall, the threats have been minimized sufficiently, and the species is robust enough, that the Service may reclassify the species from endangered to threatened or perhaps delist the species. In other cases, recovery opportunities may have been recognized that were not known at the time the recovery plan was finalized. These opportunities may be used instead of methods identified in the recovery plan.

Likewise, information on the species may be learned that was not known at the time the recovery plan was finalized. The new information may change the extent that criteria need to be met for recognizing recovery of the species. Overall, recovery of species is a dynamic process requiring adaptive management, planning, implementing, and evaluating the degree of recovery of a species that may, or may not, fully follow the guidance provided in a recovery plan.

Thus, while the recovery plan provides important guidance on the direction and strategy for recovery, and indicates when a rulemaking process may be initiated, the determination to remove a species from the Federal List of Endangered and Threatened Wildlife is ultimately based on an analysis of whether a species is no longer endangered or threatened. The following discussion provides a brief review of recovery planning for the Lake Erie watersnake as well as an analysis of the recovery criteria and goals as they relate to evaluating the status of the species.

The Service completed the final Lake Erie Watersnake Recovery Plan in 2003 (Service 2003a). We used the Recovery Plan to provide guidance to the Service, the State of Ohio, and other partners on methods to minimize and reduce the threats to the Lake Erie watersnake, to guide and prioritize research on the watersnake, and to provide measurable criteria that would help determine when the threats to the snake had been reduced so that it was no longer endangered or threatened and could be removed from the Federal List of Endangered and Threatened Wildlife (List). The Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 28–30) outlines three recovery criteria, each with two parts, to assist in determining when the snake has recovered to the

point that the protections afforded by the Act are no longer needed. All three of the criteria in the Lake Erie Watersnake Recovery Plan have been fully met and, in most cases, substantially exceeded. Each criterion and its attainment are described fully below.

Criterion 1: Population Persistence

The first criterion is intended to indicate when threats related to small population size and limited distribution of the species have been ameliorated, and the species is no longer "vulnerable to extinction or extirpation from catastrophic events, demographic variation, negative genetic effects, and environmental stresses such as habitat destruction and extermination" (64 FR 47126; August 30, 1999). Attainment of the criterion would indicate when the population size constitutes a viable, persistent population and threats have been ameliorated sufficiently. The criterion also includes a distribution component that would indicate the presence of multiple subpopulations distributed throughout the range of the subspecies to provide assurance that genetic diversity is being maintained, and provide multiple source populations should one subpopulation be eliminated due to a catastrophic event. The rationale for the targets set in this criterion is further explained in the Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 27–29, 31–33).

Criterion 1(a): Estimated population size reaches or exceeds 5,555 adult Lake Erie watersnakes on the U.S. islands combined (Kelleys, South Bass, Middle Bass, North Bass, Rattlesnake, West Sister, Sugar, Green, Ballast, and Gibraltar) for a period of 6 or more consecutive years.

Researchers at Northern Illinois University (NIU) have led intensive annual Lake Erie watersnake censuses since 2001 and have collected data to generate annual adult population estimates as recommended in the Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 39–40). The methodology for conducting censuses and calculating the adult population estimates based on the census data is detailed in King *et al.* (2006a, pp. 88–92). Generally, population estimates are generated using multiple years of mark-recapture data, and applying closed- and open-population methods to analyze the data (King *et al.* 2006a, pp. 88–92). The preferred and most accurate method for calculating population size, the Jolly-Seber method (Jolly 1965, Seber 1965), requires at least three census periods and does not provide an estimate for the first or last period. Thus, the most recent year for which Jolly-Seber population estimates were generated is 2009. To provide population estimates for 2010, the Lincoln-Petersen method (as modified by Bailey in Caughley 1977, p. 142) or Schumacher's method (Caughley 1977, p. 145) or a relationship between population density and capture rate was used, depending on the number of within-year census events and captures at a given sampling location (King and Stanford 2011, p. 3). As data are collected each year, previous years' estimates are refined and current year estimates are generated using the above methods.

King and Stanford (2011, p. 17) report the results of these annual adult Lake Erie watersnake population estimates from the time period encompassing 2001 through 2010. These population estimates indicate that Criterion 1(a) has been fully achieved, and in recent years substantially exceeded, during the period 2002–2010 (see table 1 below). Based on the most recent population estimates in King and Stanford (2011, p. 17), this criterion's population goal of at least 5,555 adults was first achieved in 2002 when there were an estimated 6,180 adult watersnakes on the U.S. islands combined, and has remained well above that level for the last 9 years. While the adult population estimate for 2010 seems low compared to other recent years, this is simply a factor associated with the method used to calculate the adult population size for the most recent year's data. As noted above, the Jolly-Seber method cannot be used to generate current-year population estimates, so a different though less exact method is used, depending on the number of within-year census events and capture numbers. It is expected that with another year of census data, the refined population estimates for each island and for the total population for 2010 will be considerably larger and more accurate.

Even more enlightening than the adult population estimates is the calculation of realized population growth of adult Lake Erie watersnakes since intensive monitoring began in 2001. King and Stanford (2009, p. 6) used the program MARK (White 2004, Cooch and White 2008) to model realized population growth using annual census data from 2001 through 2008 at eight intensive study sites with the most complete capture histories. This model documented realized population growth of approximately 6 percent per year for the years 2001–2008, with 95 percent confidence limits of 2–10 percent, providing strong evidence of a minimum of 2 percent population growth per year across multiple sites (King and Stanford 2009, pp. 6–7). This indeed demonstrates that the adult Lake Erie watersnake population has grown measurably since the time of listing, and validates the population estimates that also show increasing trends. As discussed below under Factor E, new analyses incorporating improved sex ratio and adult survival data indicate that a recovery population goal should be 6,100 snakes (King and Stanford 2009, p. 8). However, such estimates are best viewed as approximations given the available information at the time (King and Stanford 2009, p.8). Irrespective of which population goal is used, 5,555 adult snakes or 6,100 adult snakes, both population goals have been met and exceeded for nine consecutive years (2002–2010) (King and Stanford 2011, p. 17). We conclude that Criterion 1a has been fully achieved and indicates that threats related to small population size have been ameliorated.

TABLE 1—TOTAL ESTIMATED U.S. ADULT LAKE ERIE WATERSNAKE POPULATION SIZE, 2001–2010 (KING AND STANFORD 2011, P. 17). ESTIMATES THAT EXCEED ISLAND-SPECIFIC AND OVERALL POPULATION SIZE GOALS SPECIFIED IN THE LAKE ERIE WATERSNAKE RECOVERY PLAN (SERVICE 2003a) ARE SHOWN IN **Bold**

Year	Four largest U.S. Islands with Lake Erie Watersnake populations				Small islands with Lake Erie Watersnake populations*	Combined U.S. islands
	Kelleys	South bass	Middle bass	North bass		
Recovery Goal	900	850	620	410	Not applicable	5555
2001	**1860**	**1560**	**770**	160	780	5130
2002	**2150**	**1400**	**1300**	**550**	780	**6180**
2003	**2190**	**1490**	**1920**	270	780	**6650**
2004	**2750**	**1590**	**1460**	**460**	1270	**7530**

TABLE 1—TOTAL ESTIMATED U.S. ADULT LAKE ERIE WATERSNAKE POPULATION SIZE, 2001–2010 (KING AND STANFORD 2011, P. 17). ESTIMATES THAT EXCEED ISLAND-SPECIFIC AND OVERALL POPULATION SIZE GOALS SPECIFIED IN THE LAKE ERIE WATERSNAKE RECOVERY PLAN (SERVICE 2003a) ARE SHOWN IN **Bold**—Continued

Year	Four largest U.S. Islands with Lake Erie Watersnake populations				Small islands with Lake Erie Watersnake populations*	Combined U.S. islands
	Kelleys	South bass	Middle bass	North bass		
2005	**2450**	**1590**	**1920**	**790**	920	**7670**
2006	**2800**	**2670**	**3710**	**1380**	1430	**11990**
2007	**3930**	**2110**	**2480**	**970**	890	**10380**
2008	**3430**	**2540**	**3090**	**760**	2060	**11880**
2009	**2850**	**2630**	**4370**	**1170**	960	**11980**
2010	**3700**	**2070**	**2030**	**730**	1270	**9800**

*See Criterion 1(b).

Criterion 1(b): Subpopulations on each of the five small U.S. islands capable of supporting Lake Erie watersnakes year-round (Rattlesnake, Sugar, Green, Ballast, and Gibraltar) persist during the same 6-or-more-year-period as Criterion 1a, and estimated population size reaches or exceeds the population size stated below for each of the four largest islands simultaneously during the same 6-or-more-year-period as Criterion 1(a): Kelleys Island—minimum of 900 adults; South Bass Island—minimum of 850 adults; Middle Bass Island—minimum of 620 adults; and North Bass Island—minimum of 410 adults.

Populations of Lake Erie watersnakes have been confirmed on the following small U.S. islands throughout the period 2002–2010: Rattlesnake, Sugar, Green, Ballast, and Gibraltar (King and Stanford 2010b, pp. 6–7). Populations of Lake Erie watersnakes have persisted on the small islands during the same 9-year period as Criterion 1(a), exceeding the minimum 6 years specified in the recovery plan.

As identified in table 1 above, estimated population sizes for each of the four largest U.S. islands have exceeded their population size criteria for the 9 consecutive years between 2002 and 2010. This is the same consecutive 9-year period as Criterion 1(a), with only one exception—North Bass Island in 2003 (King 2008, pp. 5, 16). King (2008, p. 5) describes the circumstances of the sampling on North Bass Island that year: "North Bass Island was surveyed just once in 2003 and weather conditions were poor (partly cloudy and cool) during this survey. As a result, capture rates, especially at the NE,E,SE Shore site, were low." King (2008, p. 5) states that the Lake Erie watersnake adult population estimate for North Bass Island in 2003 is likely inaccurate because the population estimates for the years prior to and after the 2003 census substantially exceeded the population estimate for 2003, and because watersnakes require 3 to 4 years to reach adulthood. King (2008, p. 5) concludes that, "It is unlikely that these year-to-year differences in estimated population size (from 610 to 270 to 440) reflect true variation in population numbers. Instead, the low estimate for 2003 appears to reflect inadequate sampling in that year."

Based on the information above, it is reasonable to assume that North Bass Island has met the population size criterion for 9 consecutive years, as have the other three largest U.S. islands. Even if we exclude the North Bass Island population estimate for 2003, all four islands have met population size goals for 6 or more consecutive years. We, therefore, conclude that Criterion 1(b) has been fully achieved.

Criterion 2: Habitat Protection and Management

Criterion 2 is intended to ensure that sufficient habitat exists to protect approximately one-fifth of the Lake Erie watersnake delisting population goal of 5,555 adult snakes. The goal for protecting a total of 7.4 km (4.6 mi) of shoreline habitat and 0.51 km² (126 ac) of inland habitat within 69 m (226 ft) of shore accounts for approximately 10 percent of the total shoreline of the four largest islands and 13 percent of the total inland habitat within 69 m (226 ft) of shore of the four largest U.S. islands. As described in Factor A, *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range* below and the recovery plan (Service 2003a, pp. 9, 15), Lake Erie watersnakes are fairly resilient to habitat modifications and can persist along and within developed areas. However, it is important to also have habitat areas that are permanently protected and managed for the snake to provide a series of permanent refugia distributed across the islands that can support a substantial portion of the Lake Erie watersnake population. These protected and managed areas provide habitat for snakes that are temporarily displaced from other areas as well as provide core areas of habitat with reduced sources of mortality to support core populations necessary to maintain a viable population. We estimated in our recovery plan (Service 2003a, p. 34) that the protection of enough habitat to permanently support one-fifth (20 percent) of the recovery population goal is sufficient to maintain a viable population on the U.S. islands. The criterion also includes a distribution component that stratifies a portion of protected habitat across the four largest islands to ensure protected habitat is available for multiple subpopulations distributed throughout the range of the subspecies. As described in Criterion 1(a) above, multiple populations provide assurance that genetic diversity is being maintained, and provide multiple source populations should one subpopulation be eliminated due to a catastrophic event. The rationale for the targets set in this criterion is further explained in the Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 29–30, 34–35).

Criterion 2(a): Sufficient summer and hibernation habitat protected in perpetuity and sustained in a manner suitable for the continued persistence of the Lake Erie watersnake. Individual parcels will collectively encompass a total of 7.4 kilometers (km) (4.6 miles (mi)) of shoreline, and 0.51 km² (126 acres (ac)) of inland habitat lying within 69 m (226 ft) of the shoreline on U.S. islands in Lake Erie. To be included under this criterion, each parcel will have a written agreement, which may be represented by a conservation easement (such as is currently offered by the Ohio Department of Natural Resources (ODNR) and Lake Erie Islands Chapter of the Black Swamp Conservancy (LEIC–BSC)) or other habitat management plan that has been

approved by the Service (such as the "Lake Erie Watersnake Habitat Management Planning" document for Middle Bass Island State Park). Individual parcels may be publicly or privately owned.

Criterion 2(b): Protected shoreline habitat and inland habitat within 69 m (226 ft) of the shoreline, as described in Criterion 2a, will be distributed among the four major islands as follows, with the remaining protected habitat occurring on any of the U.S. islands:

(i) Kelleys Island—minimum 1.2 km (0.75 mi) shoreline, 0.083 km^2 (20.5 ac) inland;

(ii) South Bass Island—minimum 1.1 km (0.70 mi) shoreline, 0.078 km^2 (19.3 ac) inland;

(iii) Middle Bass Island—minimum 0.82 km (0.51 mi) shoreline, 0.057 km^2 (14.1 ac) inland; and

(iv) North Bass Island—minimum 0.54 km (0.34 mi) shoreline, 0.037 km^2 (9.1 ac) inland.

By working collaboratively with partners, primarily ODNR, LEIC–BSC, Western Reserve Land Conservancy (WRLC), Put-in-Bay Township Park District (PIBTPD), and Cleveland Museum of Natural History (CMNH), we have ensured the permanent protection of 18.25 km (11.41 mi) of shoreline habitat and 1.287 km^2 (318.18 ac) of inland habitat within 69 m (226 ft) of shore (table 2). The total protected habitat indicated in table 2 is more than double the goal established in Criterion 2 of the Recovery Plan, and is sufficient to support approximately half (50 percent) of the recovery population goal. Further, as evidenced in table 2, the goals for each of the four major islands have either been met or exceeded.

TABLE 2—LAKE ERIE WATERSNAKE PROTECTED HABITAT BY ISLAND-SPECIFIC AND OVERALL HABITAT PROTECTION AND MANAGEMENT GOALS SPECIFIED IN THE LAKE ERIE WATERSNAKE RECOVERY PLAN

[Service 2003a, pp. 29–30]

Island	Property	Length of shoreline		Land within 69 m of shore		Partner
		(km)	(mi)	(km^2)	(ac)	
Kelleys	Kelleys Island State Park; North Pond State Nature Preserve; Kelleys Island Alvar.	1.74	1.09	0.149	36.9	ODNR.
	Long Point Preserve	0.57	0.36	0.087	21.4	CMNH
	Schollenberger Easement	0.03	0.02	0.001	0.14	LEIC–BSC.
Subtotal		2.34	1.47	0.237	58.44	
Kelleys Goal		1.2	0.75	0.083	20.5	
South Bass	South Bass Island State Park; Oak Point State Park.	0.8	0.5	0.052	12.9	ODNR.
	Scheef East Point Nature Preserve	0.52	0.32	0.026	6.4	PIBTPD, LEIC–BSC.
Subtotal		1.32	0.82	0.078	19.3	
South Bass Goal		1.1	0.7	0.078	19.3	
Middle Bass	Middle Bass Island State Park; Kuehnle Wildlife Area.	2.74	1.71	0.197	48.7	ODNR.
	Petersen Woods	0.03	0.02	0.006	1.55	LEIC–BSC.
	Lawrence Evans	0	0	0.003	0.75	LEIC–BSC.
	Middle Bass East Point Preserve	0.22	0.14	0.017	4.3	PIBTPD, LEIC–BSC.
Subtotal		2.99	1.87	0.223	55.3	
Middle Bass Goal		0.82	0.51	0.057	14.1	
North Bass	North Bass Island State Park; Fox's Marsh Wildlife Area.	9.9	6.19	0.683	168.8	ODNR.
Subtotal		9.9	6.19	0.683	168.8	
North Bass Goal		0.54	0.34	0.037	9.1	
Green	Green Island Wildlife Area	1.7	1.06	0.066	16.34	ODNR.
Total All Islands		18.25	11.41	1.287	318.18	
Total Goal		7.4	4.6	0.51	126	

The Service's partners in establishing Lake Erie watersnake protected habitat are generally conservation organizations and we expect our partners to manage and protect Lake Erie watersnake habitat consistent with their conservation missions. However, the Service has additionally ensured that some form of permanent protection is in place for each protected habitat. Each property that counts towards Criterion 2 is protected by one of the following methods, all of which have been reviewed and endorsed by the Service: A permanent conservation easement which specifically incorporates Lake Erie watersnake habitat management and preservation; a Letter of Agreement between the landowner and the Service indicating that the habitat will be maintained in a natural habitat suitable for the Lake Erie watersnake in perpetuity; a perpetual management plan to protect Lake Erie watersnake habitat; or an environmental covenant and permanent deed restriction that supports conservation of the Lake Erie

watersnake and its habitat in perpetuity. For example, ODNR's properties compose 90 percent of the total protected inland habitat. In 2005, ODNR submitted to the Service the "Lake Erie Water Snake Habitat Management Planning; Lake Erie Island Properties Owned or Managed by the Ohio Department of Natural Resources" (ODNR 2005, p. 1) document to qualify these properties as recovery habitat for the snake.

This document identified specific management actions that will be undertaken on each island property to avoid injury and harm to the Lake Erie watersnake during typical land management activities such as mowing, tree removal, maintenance and repair of structures, and vegetation control (ODNR 2005, pp. 3–6). Some of these management actions include: Avoiding excavation during the Lake Erie watersnake hibernation season; removing only the above-ground portion of a tree while maintaining the root mass for hibernation habitat; and establishing "no mow buffer zones" within 21 m (70 ft) of the water's edge between the shoreline and more manicured lawn areas to provide summer habitat for the Lake Erie watersnake (ODNR 2005, pp. 3–5). Further, the document specifies proactive measures ODNR will implement to enhance watersnake habitat, conduct outreach activities regarding the watersnake, and promote research on the watersnake (ONDR 2005, p. 6). Finally, the document specifies that ODNR will initiate early consultation with the Service to determine how to avoid and minimize impacts to the Lake Erie watersnake prior to submitting an application to a Federal agency for conducting activities in snake habitat (ODNR 2005, p. 2). Once a species is delisted, Federal agencies would not be required to consult with the Service on their action of issuing permits, but the ODNR plans to continue this early consultation, as well as implementing all portions of the Lake Erie watersnake habitat management plan, after delisting (ODNR 2010, pers. comm.).

Another example of protected habitat is property protected by a conservation easement held by the Lake Erie Islands Chapter of the Black Swamp Conservancy. These easements include as their purpose statement, "The purpose of this Conservation Easement is to permanently maintain the Protected Property as Lake Erie Water Snake habitat as a scenic area of the Lake Erie Island Region and to prevent or remedy any subsequent activity or use that significantly impairs or interferes with this purpose" (Black Swamp Conservancy 2003, p. 2). The easement includes a number of prohibited uses designed to maintain the natural habitat of the property for the Lake Erie watersnake (Black Swamp Conservancy 2003, pp. 2–3). Finally, the easement includes management guidelines for allowable activities that avoid disturbance of Lake Erie watersnakes and their habitat (Black Swamp Conservancy 2003, pp. 13–14).

Both ODNR's Habitat Management Plan and Black Swamp Conservancy's Conservation Easement program provide examples of mechanisms for protecting Lake Erie watersnake habitat, while allowing for reasonable actions such as vegetation maintenance. All areas that qualify as protected habitat for the Lake Erie watersnake have similar management plans or similar documents, and all of these properties are overseen in some way by ODNR or another conservation-based organization. Based on this information, Criteria 2(a) and 2(b) have been fully achieved.

Criterion 3: Reduction of Human-Induced Mortality

Criterion 3(a) is intended to ensure that the Lake Erie watersnake will no longer be threatened by intentional human persecution, the main factor that led to the listing of the snake. This criterion will measure whether outreach efforts have been successful in reducing human persecution. Criterion 3(b) is intended to ensure that accidental human-induced mortality, such as occurs from roadkill, has been reduced to the maximum extent practicable, and no longer represents a significant threat to the population.

Criterion 3(a): Objective analysis of public attitude on the islands indicates that intentional human persecution is no longer a significant threat to the continued existence of the snake.

As indicated in the final listing rule for the Lake Erie watersnake (64 FR 47131; August 30, 1999), "persecution by humans is the most significant and well documented factor in the decline of Lake Erie water snakes." Lake Erie watersnake adults are large, readily encountered along the shoreline and in nearshore waters, and cluster in groups during portions of the year. Though not venomous, Lake Erie watersnakes will bite and secrete musk if handled, and sometimes will not flee when approached by humans. These Lake Erie watersnake characteristics, coupled with a general fear of snakes among a broad sector of the human population, may have contributed to an increased desire to eliminate them within the island environment, compared to other areas and other species of snake. Therefore the recovery strategy for the watersnake focused heavily on public outreach and education, in an attempt to change the negative perception and behavior of some island residents and visitors towards the watersnake. Public outreach focused on several basic messages: Lake Erie watersnakes are not venomous; Lake Erie watersnakes are a natural part of the island environment; and Lake Erie watersnakes should not be harmed or killed. Several public opinion surveys were recently conducted to gauge island landowner perception of the Lake Erie watersnake, and past, current, and future behavior towards the snake. Information on public opinion was derived primarily from formal surveys conducted by Wilkinson, Northern Illinois University (NIU) (Wilkinson 2008) and Olive (2008).

The Lake Erie Watersnakes Public Opinion Survey (Wilkinson 2008) of 754 randomly selected island residents within the range of the Lake Erie watersnake resulted in 348 responses from residents of 5 U.S. islands, 1 response from 1 Canadian island resident, and 1 response from 1 non-island resident (Wilkinson 2008, p. 7). Nineteen questions were asked to gauge the general knowledge, perceptions, and threat of human persecution among island residents. Respondents were also given the opportunity to provide written comments. Several of the survey questions were identical to survey questions asked of island residents in a 1999 public opinion survey (Service 1999), and answers were compared to determine changes over time.

Responses from the 2008 survey indicate that 99 percent of respondents are aware that the Lake Erie watersnake occurs on the island, and that 94 percent of respondents are aware that it is a protected animal (Wilkinson 2008, pp. 1, 5). Eighty-three percent of respondents indicate that their knowledge of the Lake Erie watersnake has increased since the species was listed in 1999 (Wilkinson 2008, p. 5). Respondents cite a large variety of methods by which they have become more familiar with the snake, including: The Service and ODNR's biannual newsletter "LEWS News," the "Island Snake Lady" (an NIU researcher funded by ODNR and the Service), and various media sources (Wilkinson 2008, pp. 2–4). Generally, these data indicate that Federal, State, and nongovernmental organizations' outreach and education campaigns are reaching the vast majority of island residents, and are

helping to increase their access to information about the watersnake.

Additionally, Wilkinson (2008, p. 1) reports that 66 percent of respondents indicated that their attitude toward the watersnake is generally positive or neutral, while 34 percent indicate that their attitude is generally negative. While it is apparent that not all residents feel positively toward the snake, it is very notable that, despite human persecution being the most significant factor in the decline of the Lake Erie watersnake, only about 4 percent of respondents indicated they had knowingly killed a watersnake since the time of listing, and only about 14 percent of respondents said they would knowingly kill a watersnake if it was no longer protected by State or Federal laws (Wilkinson 2008, p. 6). We interpret these responses to indicate that, while the watersnake will still face some human persecution, the vast majority of islanders would not resort to lethal means if they encountered watersnakes on their property.

Similarly, in 2007, Olive (2008, p. 83) randomly selected and interviewed 44 individual property owners from Middle Bass Island regarding the Endangered Species Act and the Lake Erie watersnake. Of those interviewed, 7 percent admitted to killing a snake and 18 percent admitted they might kill a snake while it is listed (Olive 2008, pp. 112–113, 153).

Despite the admitted intentional human persecution documented by both Wilkinson (2008, p. 6) and Olive (2008, pp. 112–113, 153), adult Lake Erie watersnake populations have increased substantially since the time of listing, both across the U.S. range and on each large island (King and Stanford 2010a, p. 11; King and Stanford 2009, pp. 6–7). This positive population growth indicates that the adult Lake Erie watersnake population can tolerate some loss of individuals due to intentional mortality and still persist at a recovery level.

Wilkinson's 2008 public opinion survey found that 31 percent of respondents' attitudes toward Lake Erie watersnakes have become more negative since listing, 30 percent have become more positive, and 39 percent have not changed (Wilkinson 2008, p. 1). While this survey did not attribute reasons to the change in attitude, 69 out of 168 (41 percent) of the optional comments on Wilkinson's (2008, pp. 8–13) survey response form indicated the belief that there are now too many snakes, that the snakes are becoming nuisances due to their numbers and their habits of clustering along the shoreline, or that the snakes should no longer be protected.

Public opinion of the Lake Erie watersnake varies widely among those who support it, those who have no opinion, and those who dislike or fear the snake. Outreach efforts have reached nearly all island residents, increasing access to information about the Lake Erie watersnake, including nonlethal ways to address nuisance snakes. Opinion surveys indicate that most people do not now and will not in the future kill Lake Erie watersnakes; however, many people indicate that the sheer number of snakes along the shoreline has become a nuisance, and this may contribute to negative feelings towards the snake. As Lake Erie watersnake numbers have rebounded, and a significant amount of habitat has now been permanently protected to support Lake Erie watersnakes, the Lake Erie watersnake population can withstand a limited amount of intentional mortality. While the threat of intentional mortality likely can never be completely eliminated, results of public opinion surveys along with population estimates indicate that the number of mortalities anticipated from intentional human persecution on its own and with other residual threats are not limiting population persistence or growth.

Continued outreach regarding the Lake Erie watersnake's role in the island ecosystem is important, and this effort will continue through various partners post-delisting. Planned ongoing outreach activities are addressed in the Summary of Factors Affecting the Species—Factor E, *Other Natural or Manmade Factors Affecting Its Continued Existence*, below. Public opinion will be monitored post-delisting to ensure this remnant threat is not affecting the Lake Erie watersnake population as a whole. Therefore, we conclude Criterion 3(a) has been fully achieved.

Criterion 3(b): Accidental human-induced mortality, such as occurs from roadkill and fishing, has been reduced to the maximum extent practicable, and no longer represents a significant threat to the population.

Several sources of accidental human-induced mortality have been examined to determine to what degree they may be contributing to overall mortality of Lake Erie watersnakes, and if they are a significant threat to the population.

A survey of registered boaters in the Lake Erie island region was conducted to determine how many members of the Lake Erie Island boating and fishing community had direct encounters with snakes, and to characterize the responses from these encounters (Stanford 2004). Of 1,437 surveys mailed out, 468 were completed and returned (Stanford 2004, p. 1). An additional 21 surveys were completed voluntarily by individuals who picked them up at various outreach events that occurred in the vicinity of the islands, for a total of 489 survey responses (Stanford 2004, p. 1). Of the respondents, 118 reported having encountered a watersnake on their boat, and not a single encounter resulted in a boater or angler killing a snake (Stanford 2004, p. 2). These data suggest that encounters between boaters and watersnakes typically do not result in mortality. Only 13 of the 489 respondents (less than 3 percent) indicated that they have ever caught a snake by hook and line while fishing with both live and artificial baits, and from both boat and shore, though no information was provided regarding snake mortality during these incidents (Stanford 2004, p. 2). It is clear that bycatch of Lake Erie watersnakes due to hook and line fishing incidents is very rare, and does not pose a significant threat to the population.

Despite the rarity of mortality during fishing and boating, approximately 25 percent of boaters and anglers near the Lake Erie islands may encounter a Lake Erie watersnake (Stanford 2004, p. 2). ODNR Division of Wildlife developed pamphlets entitled, "Lake Erie Watersnake—Make your Boating Experience More Pleasant" to aid anglers and boaters in deterring Lake Erie watersnakes from entering their boats, and to recommend nonlethal methods to remove snakes from boats (ODNR 2003). These pamphlets are available online (*http://respectthesnake.com*) and at a number of State parks, boat launches, and marinas in the island region.

To address the effect roadkill mortality may have on the Lake Erie watersnake population, King (2007, pp. 5–6) conducted a survey of roadkill mortality on the four large U.S. islands between June 26 and July 15, 2005. This survey found a total of 71 roadkill snakes, including 45 roadkill Lake Erie watersnakes (King 2007, p. 5). King (2007, p. 6) states, "Among watersnakes, 38 were neonates, 5 were juveniles, and 2 were adults. These results suggest that adult Lake Erie watersnake roadkill mortality is relatively low (Brown and Weatherhead 1999). Available data on watersnake mortality suggest that survivorship of neonates is low. Thus, roadkill mortality of this age-class likely has little impact on watersnake population trends." Therefore, we conclude that the number of mortalities

anticipated from accidental human-induced mortality due to roadkill events alone or coupled with other residual threats is not likely to limit population growth or persistence.

As described further under Summary of Factors Affecting the Species—Factor A and Factor E below, intensive public outreach has occurred to increase awareness of island residents and visitors of the presence of the Lake Erie watersnake on the Lake Erie islands and in nearby waters, and to reduce both accidental and intentional mortality of Lake Erie watersnakes. To reduce accidental mortality from typical land management activities such as lawn mowing and tree clearing, and to guide residents in an appropriate way to address Lake Erie watersnakes that are found in garages, pools, lawns, patios, basements, and other similar areas, various outreach documents have been developed by both the Service and ODNR. The Service's "Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities" (Service 2009, Service 2003b) provide guidance on how to avoid take during typical land-management activities; and ODNR's "A Lakeshore Property Owner's Guide to Living with Lake Erie Watersnakes" (ODNR 2006) provides guidance on dealing with nuisance snakes in human living areas in a non-lethal manner. These documents are available on the Internet (*http://respectthesnake.com*) and at various locations on the islands.

In summary, we have assessed the impact of accidental human-induced mortality on the adult Lake Erie watersnake population. We have used an intensive public outreach campaign to increase awareness of residents and visitors to the presence and protected status of the Lake Erie watersnake, and have provided guidance and tools for minimizing human–snake encounters and addressing snakes encountered in boats, homes, yards, and other human-inhabited areas in a nonlethal manner. We have determined that accidental human-induced mortality, such as that which occurs from boating, fishing, and roadkill events, does not pose a substantial threat to the adult Lake Erie watersnake population, and, therefore, does not warrant further action. We assert that Criterion 3(b) has been achieved.

Identification of Additional Threats

The Lake Erie Watersnake Recovery Plan also identified potential additional threats that should be investigated. The plan did not recommend any specific criteria in regard to these potential threats, but instead recommended research to determine the degree of threat, if any, posed by invasive species and contaminants.

The Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 18, 38, 49, 57) recommended that additional studies be conducted to document the impact invasive species, including the round goby, may have on the watersnake. King *et al.* (2006b, p. 110) found that, since the appearance of round goby in the Great Lakes in the early 1990's, Lake Erie watersnake diets have shifted from a diet of native fishes and amphibians to a diet composed of more than 90 percent round goby. This dietary shift corresponds to increased watersnake growth rates, increased body size, and increase in fecundity, with female watersnakes producing on average 25 percent more offspring post-invasion (King *et al.* 2008, pp. 155, 158; King *et al.* 2006b, pp. 111–113). King *et al.* (2008, p. 159) suggest that, "resource availability may have contributed to population declines in Lake Erie watersnakes during the mid- to late-1900s. * * * While habitat loss and human-caused mortality are likely contributors to past watersnake population declines, the possibility exists that a reduction in benthic [lake bottom] fish biomass, resulting in reduced watersnake fecundity, was also a factor. Unfortunately, quantitative data on long-term temporal trends in benthic fish biomass are lacking."

Since the establishment of round goby in Lake Erie in the mid 1990s they have become ubiquitous and plentiful throughout the Lake. Johnson *et al.* (2005, p. 83) estimated that the western basin alone supported 9.9 billion round goby, and found that population assessments using nonvisual techniques (such as trawl surveys) tend to be conservative. ODNR annually samples for selected fish species within the western basin of Lake Erie using trawl surveys, and has included round goby in the sampling since 1995. Since 1998, mean catch-per-hectare of all age classes of round goby from trawl surveys in August and September range from 38.6 to 226.9 (ODNR 2010a, pp. 84–85), with sometimes substantial differences in catch-per-hectare rates between months in the same year. This sampling indicates an oscillating trend in goby abundance since their establishment in the western basin, and should be considered a conservative detection method based on Johnson *et al.*'s findings (2005, p. 83). ODNR Fisheries Researcher Carey Knight (2010, pers. comm.) indicates that round goby are likely to remain established and plentiful within the Lake Erie basin over time, but that localized botulism or hypoxia/anoxia events could result in localized, temporary depletions of goby, including within the range of the Lake Erie watersnake. Regardless of these localized events, it is likely that the round goby will persist within the western Lake Erie basin for the foreseeable future.

If it is correct that limited foraging opportunities were a cause of the watersnake's population declines, the abundance of the round goby within the island region of western Lake Erie will likely provide a significant prey source into the foreseeable future, negating any threats from limited prey availability.

The Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 18–19, 38, 49, 57) also recommended that additional studies be conducted to document the impact contaminants may have on the watersnake. In particular, this research became a high priority when it became apparent that the watersnake's diet switched from native fish and amphibians to almost exclusively round goby (King *et al.* 2006b, p. 110). Round goby is a nonnative, invasive species that arrived from the Black and Caspian Seas in ballast water and became established within the Great Lakes in the early 1990's (Jude *et al.* 1992, pp. 418–419). Round goby is abundant in the western basin of Lake Erie, with an estimate of 9.9 billion round gobies in 2002 (Johnson *et al.* 2005, p. 83). Round goby prey extensively on zebra mussels (*Dreissena polymorpha*) and quagga mussels (*Dreissena bugensis*) (Ray and Corkum 1997, p. 270). Zebra and quagga mussels are nonnative, invasive species from the Black and Caspian Seas that have become established within the Great Lakes and are abundant in and around the western Lake Erie islands reaching densities up to $3.4x10^5$ mussels per m^2 in the western basin of Lake Erie (Leach 1993, p. 381).

Zebra and quagga mussels are filter feeders and are known to bioaccumulate contaminants including PCBs (Kwon *et al.* 2006, pp. 1072, 1075). Biomagnification of PCBs has been documented in the zebra mussel—round goby—smallmouth bass food chain in Lake Erie (Kwon *et al.* 2006, p. 1075), so biomagnification of contaminants through the consumption of round goby by Lake Erie watersnakes was thought to be a possible threat to the watersnake. Polychlorinated biphenyls (PCBs) have been documented in Lake Erie watersnakes in fairly high levels (113 micrograms per gram (µg/g) (Bishop and Rouse 2006, pp. 454, 456) and 167 µg/g (Bishop and Rouse 2000, pp. 500–501)).

Recent research compared the levels of contaminants in Lake Erie

watersnakes pre- and post-goby invasion and found "a marginal increase in hexachlorobenzene levels, and a significant decline in dieldrin, oxychlordane, and heptachlor epoxide," and found that, "sum PCBs and p,p′-Dichlorodiphenyldichloroethylene (DDE) remained stable in the watersnakes after the invasion of round goby * * * suggesting that although the dietary switch to round gobies meant consumption of a more contaminated diet, their diet remained at the same trophic position [place in the food chain]" (Fernie *et al.* 2008 p. 344). Fernie *et al.* (2008, pp. 344, 349–350) did recommend additional studies to determine if these contaminants affect reproductive and physiological parameters in Lake Erie watersnakes; however, because Bishop and Rouse (2006, pp. 452, 454, 456) tested for and did not find a correlation between high levels of PCBs and embryonic mortality or number of embryos produced by female watersnakes, no additional research on contaminants is deemed necessary at this time.

Research confirms that the dietary switch from native fish and amphibians to round goby has not resulted in significant increases in contaminant loads in Lake Erie watersnakes. Additionally, while relatively high levels of PCBs were detected in watersnakes, these levels did not correspond with reduced embryonic survivorship. Lake Erie watersnake population numbers continue to increase despite relatively stable exposure to contaminants over the past 18 years of study, and, therefore, we conclude that contaminants do not pose a significant threat to the Lake Erie watersnake at this time or in the foreseeable future.

Results of Recovery Plan Review

Available data indicate that all recovery criteria have been fully met. In addition, we investigated other potential threats and concluded they do not pose significant threats, and, therefore, no further action with respect to these potential threats is necessary. Based on our review of the Lake Erie Watersnake Recovery Plan, we conclude that review of the status of the Lake Erie watersnake under section 4(a)(1) would result in a determination that the species be removed from the List of Endangered and Threatened Wildlife. That analysis is presented below.

Summary of Public and Peer Review Comments and Recommendations

In our June 1, 2010, proposed rule, we requested that all interested parties submit information, data, and comments concerning multiple aspects of the status of the Lake Erie watersnake. The comment period was open from June 1, 2010, through August 2, 2010.

In accordance with our policy on peer review, published on July 1, 1994 (59 FR 34270), we solicited review from five expert scientists who are familiar with this species regarding pertinent scientific data and assumptions relating to supportive biological and ecological information for the proposed rule. Reviewers were asked to review the proposed rule, the supporting data, and the post-delisting monitoring plan, to point out any mistakes in our data or analysis, and to identify any relevant data that we might have overlooked. Three of the five peer reviewers submitted comments. All three were supportive of the proposal to remove the Lake Erie watersnake from the Federal List of Endangered and Threatened Wildlife. All peer reviewer comments are incorporated directly into this final rule or the final post-delisting monitoring plan.

During the 60-day comment period, we received comments from five individuals, organizations, and government agencies. We have read and considered all comments received. We updated the rule where it was appropriate. The only substantive issue raised was by ODNR Office of Coastal Management. ODNR Office of Coastal Management commented that Federal agency activities having reasonably foreseeable effects on any land or water use or natural resource of Ohio's designated coastal zone must be consistent to the maximum extent practicable with the enforceable policies of the federally approved Ohio Coastal Management Program. If coastal effects are reasonably foreseeable, the Service should submit a Consistency Determination to the ODNR Office of Coastal Management; however, if there are no coastal effects, a Negative Determination can be submitted to ODNR. Removing the Lake Erie watersnake from the List of Endangered and Threatened Wildlife will not result in any foreseeable effects on land or water use or natural resources of Ohio's designated coastal zone. The Service submitted a Negative Determination to ODNR Office of Coastal Management on September 28, 2010. On November 12, 2010, ODNR Office of Coastal Management provided a concurrence letter indicating no further coordination on this issue is necessary (ODNR 2010b).

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. "Species" is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Once the "species" is identified, we then evaluate whether that species may be endangered or threatened because of one or more of the five factors described in section 4(a)(1) of the Act. We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened because (1) The species is extinct, (2) the species has recovered and is no longer endangered or threatened, or (3) the original scientific data used at the time the species was classified were in error.

A recovered species is one that no longer meets the Act's definition of threatened or endangered. The analysis for a delisting due to recovery must be based on the five factors outlined in section 4(a)(1) of the Act. This analysis must include an evaluation of threats that existed at the time of listing, those that currently exist, and those that could potentially affect the species once the protections of the Act are removed.

In the context of the Act, the term "threatened species" means any species or subspecies or, for vertebrates, Distinct Population Segment (DPS) that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The term "endangered species" means any species that is in danger of extinction throughout all or a significant portion of its range. The Act does not define the term "foreseeable future." For the purpose of this rule, we define the "foreseeable future" to be the extent to which, given the amount and substance of available data, we can anticipate events or effects, or reliably extrapolate threat trends, such that we reasonably believe that reliable predictions can be made concerning the future as it relates to the status of the Lake Erie watersnake.

The following analysis examines all five factors currently affecting, or that are likely to affect, the Lake Erie watersnake within the foreseeable future.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The islands on which the Lake Erie watersnake occurs provide seasonal residences and vacation areas to a large number of people during the summer months. Further, the western Lake Erie basin is widely known for recreational and fishing opportunities, and is a regional destination area, particularly during the summer months. It is therefore not surprising that most of the islands have faced and continue to face development pressure (Seymour 2009, pers. comm.).

Prior to listing, three of the large islands (Kelleys, Middle Bass, and South Bass) were fairly well developed with residences and small-scale commercial businesses, with scattered natural areas throughout. North Bass Island supported a few residences, but was primarily agricultural, and dedicated to viticulture (vineyards). The small islands are mostly privately owned, and typically support a few residences interspersed with natural areas. Development activities on the islands since the Lake Erie watersnake was listed in 1999 include the following types of projects: Residential construction on three of the four large islands, hotel and motel structures on two of the large islands, dock construction and rehabilitation on most of the islands, shoreline stabilization on most of the islands, small and large marina construction and rehabilitation on several of the islands, utility line installation on three of the large islands, road rehabilitation projects on two of the large islands, wastewater treatment facilities on several of the islands, beach nourishment projects on several of the islands, small-scale commercial development on several of the large islands, and airport upgrades on several of the islands (Seymour 2009, pers. comm.).

Many of these activities occur on or near the shoreline, where Lake Erie watersnakes spend much of their time. In some cases, development activities can result in habitat loss or degradation, for example, when a building is constructed along a segment of shoreline that previously supported natural vegetation, or when a vertical wall is constructed along the shoreline to protect against erosion. However, some types of development actually provide suitable Lake Erie watersnake habitat. For example, Lake Erie watersnakes will readily use rip-rap or armor stone erosion control structures and crib docks that incorporate stone fill for summer habitat.

Destruction or Modification of Summer Habitat

As described in the *Background* section, Lake Erie watersnake summer habitat consists of the rocky and vegetated island shorelines and the adjacent nearshore waters of Lake Erie. Seventy-five percent of adult Lake Erie watersnakes are found within 13 m (42.7 ft) of the water's edge during the summer (King 2003, p. 4). Destruction or modification of summer habitat typically occurs due to residential or, less often, commercial development, installation or modification of roadways and associated utilities, shoreline erosion control projects, dock construction or modification, and dredging activities. These activities may result in loss or degradation of rocky shorelines, vegetation, and nearshore aquatic habitats, which the snakes use for basking, resting, cover, mating, and foraging.

Lake Erie watersnakes are affected by summer habitat destruction and modification in a variety of ways, depending on the method, design, and timing of the specific project. Lake Erie watersnakes are resilient to many modifications to summer habitat, such as installation of rip-rap erosion control structures and crib docks. Repeated observations over multiple years document that individual Lake Erie watersnakes displaced during construction activities will return to the same area once construction is complete, as long as rocky or vegetated shoreline habitat is present (Stanford 2009, pers. comm.). Further, artificial habitat such as crib docks and rip-rap erosion control are known to support a large number of Lake Erie watersnakes during the summer season on all of the large islands, and may actually provide habitat where natural rocky shoreline habitat was previously limited. Projects that impact summer habitat, but occur during the winter season, may have no observable impacts on the Lake Erie watersnake, while projects that impact summer habitat during the summer may cause temporary displacement of Lake Erie watersnakes from all or a portion of their shoreline home range.

The vast majority of the islands' shorelines are typically composed of either larger parcels (typically ODNR properties) that are protected Lake Erie watersnake habitat or smaller private lots. Larger parcels comprise approximately one-quarter (25 percent) of the islands' shoreline, and these areas are designated as protected habitat for Lake Erie watersnakes. In most cases, projects that impact Lake Erie watersnake summer habitat occur on small private parcels. Because of the limited size of these parcels and the types of shoreline projects that would occur there, impacts will be limited to only a small portion of an individual snake's home range. While individual snakes may be displaced from portions of their home ranges, displacement would likely be temporary, as Lake Erie watersnakes are known to return to former home ranges once construction actions are complete, and adjacent portions of an individual watersnake's habitat would likely remain undisturbed and available to support the snake's breeding, feeding, and sheltering needs.

There are only a few activities that may permanently displace Lake Erie watersnakes from their summer habitat, including installation of vertical steel or concrete walls along the shoreline or over the sides of existing rock-filled crib docks. In instances where homes, businesses, roads, or other similar structures are built close to the shoreline, the presence of manicured lawns and shorelines may degrade summer habitat through loss of cover, though Lake Erie watersnakes are often encountered basking in grassy areas near the shoreline despite the presence of homes or roads. While Lake Erie watersnakes may use grassy areas near shorelines and roads for basking, this habitat is not ideal because snakes are highly visible and may be more susceptible to predation or human persecution, and less cover is generally available in these areas. Further, maintenance activities such as mowing may kill or injure snakes that use maintained grassy areas. Finally, snakes basking along road edges may be more susceptible to road kill than snakes basking near natural shorelines. Threats such as roadkill and human persecution are addressed under Factor E below.

Impacts to foraging habitat (Lake Erie) are typically limited to fill placement for erosion control, docks, or navigation structures, or dredging to facilitate navigation. All impacts to foraging habitat are regulated by the U.S. Army Corps of Engineers (Corps) through section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act (see Factor D, *The Inadequacy of Existing Regulatory Mechanisms*). Projects such as these typically cover only a small geographic area, and are of limited duration. Impacts to the Lake Erie watersnake from these activities may include a limited amount of foraging habitat loss due to placement of fill within Lake Erie, degradation of foraging habitat due to short-term turbidity, and temporary displacement from foraging areas where construction activities are occurring. While

watersnakes may be temporarily displaced from foraging habitat during construction, on repeated occasions over multiple years, individual Lake Erie watersnakes have been documented recolonizing disturbed foraging areas shortly after construction activities are complete (Stanford 2009, pers. comm.). As noted above, the primary prey of Lake Erie watersnakes is round goby, and these fish are superabundant in the island region (King *et al.* 2006b, p. 110). Foraging habitat and prey do not appear to be a limiting factor for Lake Erie watersnakes, and therefore limited construction activities within foraging habitat are not anticipated to have significant impacts on Lake Erie watersnakes.

Prior to listing, summer habitat modification included the activities described above, but of particular concern was the proliferation of sheet steel docks and vertical concrete and steel shoreline walls. Development of homes, businesses, and roads along the island shorelines may have degraded natural watersnake habitat to some degree, but as described above, Lake Erie watersnakes appear to be fairly resilient to the presence of these types of structures, as long as rocky or vegetated shorelines persist once construction is complete.

Since the time of listing, most destruction and modification of Lake Erie watersnake summer habitat has been subject to consultation under section 7 of the Act through the issuance of Corps permits under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act (see Factor D, *The Inadequacy of Existing Regulatory Mechanisms*). These laws provide the Service the opportunity to review and comment on all projects affecting Lake Erie watersnake foraging habitat and many projects affecting shoreline habitat. Under these authorities, the Service has consistently recommended installation of rip-rap erosion control structures and crib docks in lieu of vertical concrete or sheet steel structures, seasonal timeframes for construction activities if appropriate, educational signage, and other appropriate avoidance and minimization measures. This consultation has reduced shoreline habitat degradation substantially, and has resulted in the creation of artificial shoreline habitat for Lake Erie watersnakes on many islands.

We anticipate that similar projects impacting the islands' shorelines and the Lake Erie watersnake's summer habitat will continue into the foreseeable future. As noted above, the vast majority of these projects are regulated by section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act, and as such, the Service will have the opportunity to review and comment on these Corps projects via the public notice process following delisting. The Service will continue recommending rock structures as opposed to vertical structures on these types of projects, under the authority of the Fish and Wildlife Coordination Act, as rock structures are beneficial not only to snakes, but to fish and other aquatic species as well. We anticipate that construction of shoreline structures beneficial to Lake Erie watersnakes will continue into the foreseeable future.

The destruction or modification of summer habitat may temporarily displace individual watersnakes. However, these impacts do not affect the population as a whole because individuals are generally not lost from the population and displacement does not appear to significantly affect survival and reproduction to the point that it would affect population growth or viability. Shoreline habitat loss has been minimized while the species has been listed and is expected to remain minimal within the foreseeable future due to coordination and consultation with the Corps under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act, and the use of snake-friendly designs such as rip-rap and crib docks. Lake Erie watersnakes have been documented to readily use these structures for summer habitat.

Further, while shoreline construction activities may temporarily displace Lake Erie watersnakes from portions of summer habitat, they will readily recolonize these areas shortly after construction activities are complete, as long as rocky or vegetated shorelines still exist (Stanford 2009, pers. comm.). Destruction and modification of foraging habitat is typically limited in scope and duration, and does not appear to be a limiting factor for the watersnake. The presence of permanently protected habitat for the Lake Erie watersnake will reduce the potential for impacts to summer habitat, as will the use of voluntary guidelines to minimize impacts of habitat modification and promote the use of compatible structures and materials beneficial to the snake. Both are described further below.

Destruction or Modification of Hibernation Habitat

As described in the *Background* section, during winter (generally mid-September through mid-April), Lake Erie watersnakes hibernate below the frost level, in cracks or crevices in the bedrock, interstitial spaces of rocky substrates, tree roots, building foundations, and other similar natural and human-made structures (King 2003, pp. 5, 11–18). Seventy-five percent of Lake Erie watersnakes hibernate within 69 m (226 ft) of the water's edge (King 2003, p. 4). Individual snakes often demonstrate site fidelity, returning to the same shoreline area and the same or nearby hibernacula in successive years (King 2003, pp. 4, 11–17).

Destruction or modification of hibernation habitat typically occurs due to residential development, or less often, commercial development, installation or modification of roadways or utilities, removal of tree roots, agriculture, and other excavation activities in areas within approximately 69 m (226 ft) of the shoreline. These activities may result in excavation, filling, or general disturbance of the rock, soil, root, or other substrates within which Lake Erie watersnakes hibernate.

Lake Erie watersnakes are affected by hibernation habitat destruction and modification in a variety of ways, depending on the extent and timing of the specific project. Destruction or modification of hibernation habitat during the winter when Lake Erie watersnakes are hibernating will likely result in death of hibernating snakes due to exposure, as well as the loss of the hibernacula for future generations of snakes. If snakes are excavated during the hibernation season it is unlikely that they would be able to search for and find alternate hibernacula due to cold temperatures and frozen or snow-covered ground, and would not survive exposure to winter weather. Destruction or modification of hibernation habitat during the summer when Lake Erie watersnakes are not hibernating may result in temporary or permanent displacement from the hibernation area, and may force the snakes to find alternate hibernation sites.

Though Lake Erie watersnakes often demonstrate hibernacula fidelity, individual snakes have survived the winter when accidentally relocated during the summer to areas outside of their home range (King and Stanford 2009, p. 8), and when documented moving between islands (King 2002, p. 4), indicating that they are capable of finding new hibernation sites when previous sites are inaccessible. While this indicates that some Lake Erie watersnakes are able to locate suitable alternate hibernacula, it is also likely that some Lake Erie watersnakes are unable to locate suitable alternate hibernacula and die from exposure or

predation. Because Lake Erie watersnakes appear to use a variety of substrates and materials as hibernation habitat, and hibernation habitat sufficient to support approximately half (50 percent) of the adult Lake Erie watersnake recovery population is now protected, it is unlikely that the presence of suitable hibernation habitat is a limiting factor for the snake. It is more likely that loss of hibernation habitat during the winter is problematic due to the accompanying mortality.

Prior to the watersnake's 1999 listing, three of the four large islands were subject to substantial residential and commercial development, and North Bass Island, while not subject to substantial development, was intensively farmed for grapes. Destruction and modification of hibernation habitat for development and agricultural activities likely occurred on a regular basis throughout the year. It is likely that Lake Erie Watersnakes were displaced from their hibernation habitat when excavation or filling of hibernacula associated with the above activities occurred during the summer months. During portions of the watersnake's hibernation season, the lake and ground are frozen and snow-covered, limiting access to construction vehicles and likely precluding some, but not all, ground-disturbing activities during this most sensitive time period. Therefore, it is likely that some Lake Erie watersnakes were injured or killed during excavation or filling activities within hibernation habitat that occurred during the hibernation season.

Since listing, many excavation or filling activities within proximity to the shoreline have been coordinated with the Service to determine if the activity would result in take of Lake Erie watersnakes or to determine if avoidance or minimization measures were warranted. Projects involving small areas of excavation, excavation of topsoil only, or excavation far inland from the shoreline, and that were completed during the summer months, were not anticipated to cause direct mortality or substantial displacement of Lake Erie watersnakes. Other projects that resulted in substantial excavation or fill within proximity to the shoreline were anticipated to destroy or modify hibernacula and cause take of Lake Erie watersnakes. For these projects, formal consultation under section 7 of the Act or the issuance of a section 10(a)(1)(B) permit under the Act occurred. During the 12-year period during which Lake Erie watersnakes have been listed, only six projects were anticipated to cause loss of hibernation habitat and take of Lake Erie watersnakes. While development is fairly evenly spread across three of the large islands, most projects reviewed since the watersnake's listing did not cause loss of hibernation habitat.

We anticipate that, within the foreseeable future, loss of Lake Erie watersnake hibernation habitat will likely proceed at approximately the same rate as within the past 12 years. We anticipate that approximately one large-scale development every 2 years will cause loss of Lake Erie watersnake hibernation habitat (Seymour 2009, pers. comm.). The presence of hibernation habitat is not likely a limiting factor for the subspecies; however, to limit mortality of watersnakes, it is important that large-scale excavation or filling activities within approximately 69 m (226 ft) of the shoreline do not occur during the winter hibernation season. Once the species is delisted, there will be no requirement to consult with the Service on activities that may affect hibernation habitat, nor is there a separate Federal nexus that would trigger Service review of the project as is the case with projects that may affect summer habitat. The Service has addressed this gap in hibernation habitat protection and management by the presence of permanently protected habitat for the Lake Erie watersnake, and by use of voluntary guidelines, both described further below.

The destruction or modification of hibernation habitat may displace individual watersnakes and result in minimal mortality, but these impacts do not affect the population as a whole. Hibernation habitat loss during listing was minimal, and within the foreseeable future is likely to continue to be minimal, based on recent trends (Seymour 2009, pers. comm.). Lake Erie watersnakes have recently been documented to survive winters despite their former hibernacula being inaccessible, indicating they are capable of finding alternate hibernacula if historical hibernacula are lost. The potential loss of some hibernation habitat due to development post-delisting will be mitigated by the presence of permanently protected habitat on each of the large islands, described further below.

Protected Habitat

While it is true that Lake Erie watersnakes are fairly resilient to some habitat modifications and persist along and within developed areas, the Service recognizes that it is important to also have portions of habitat that are permanently protected and managed to benefit the Lake Erie watersnake, and which will provide a substantial amount of suitable summer and hibernation habitat for the snake in the foreseeable future. The Lake Erie Watersnake Recovery Plan calls for the permanent protection and management of summer and hibernation habitat sufficient to support one-fifth (20 percent) of the recovery population goal of 5,555 adult Lake Erie watersnakes (Service 2003a, p. 34). This habitat must encompass a total of 7.4 km (4.6 mi) of shoreline, and 0.51 km^2 (126 ac) of inland habitat lying within 69 m (226 ft) of the shoreline on U.S. islands in Lake Erie (Service 2003a, p. 29).

Additionally, this habitat must be distributed among the large U.S. islands as described below to support multiple subpopulations throughout the range of the subspecies: Kelleys Island—1.2 km (0.75 mi) shoreline, 0.083 km^2 (20.5 ac) inland; South Bass Island—1.1 km (0.70 mi) shoreline, 0.078 km^2 (19.3 ac) inland; Middle Bass Island—0.82 km (0.51 mi) shoreline, 0.057 km^2 (14.1 ac) inland; and North Bass Island—0.54 km (0.34 mi) shoreline, 0.037 km^2 (9.1 ac) inland (Service 2003a, p. 29). The remaining protected habitat may occur on any of the U.S. islands. To be included as protected habitat, each parcel will have a written agreement, which may be represented by a conservation easement or other habitat management plan that has been approved by the Service (Service 2003a, p. 29) and protects Lake Erie watersnake habitat in perpetuity.

As discussed in *Recovery,* by working collaboratively with partners, primarily ODNR, LEIC–BSC, Western Reserve Land Conservancy, Put-in-Bay Township Park District, and Cleveland Museum of Natural History, we have ensured the permanent protection and management of 18.25 km (11.41 mi) of shoreline habitat and 1.287 km^2 (318.18 ac) of inland habitat within 69 m (226 ft) of shore (see table 2) in perpetuity. The total protected habitat indicated in table 2 above is more than double the goal established in Criterion 2 of the Recovery Plan, and is sufficient to support approximately half (50 percent) of the recovery population goal of 5,555 adult Lake Erie watersnakes. Further, as evidenced in table 2, the recovery goals for protected habitat on each of the four major islands have either been met or exceeded. This protected habitat will provide a series of permanent refugia distributed across the islands and across the U.S. range of the subspecies that can support a substantial portion of the Lake Erie watersnake population.

The recovery plan (Service 2003a, p. 34) describes why this quantity of protected habitat is sufficient to

maintain a viable population of Lake Erie watersnakes: Lake Erie watersnakes are fairly resilient to habitat modifications and can persist along and within developed areas (Service 2003a, pp. 9, 15); adult population estimates at the time the recovery plan was drafted were nearing the recovery goals even though only 0.046 km² (11.4 ac) of inland habitat and 0.89 km (0.55 mi) of shoreline habitat met the definition of protected habitat; and hibernation sites can support more than one snake, therefore, protection of the specified habitat amounts could support more than the estimated half (50 percent) of the recovery population. Based on the above information, the Service assumes that the remaining half (50 percent) of the recovery population will persist on the other 75 percent of island shoreline and 67 percent of inland areas within 69 m (226 ft) of shoreline that is not protected habitat.

While not considered in the Recovery Criterion, it is important to note that several of the islands in Canada also support Lake Erie watersnake habitat that is permanently protected: Middle Island (18.5 ha (48 ac)) is owned by Parks Canada and is part of Point Pelee National Park (Dobbie 2008, p. 8); East Sister Island (15 ha (37 ac)) is protected as a Provincial Nature Reserve by Ontario Parks (Ontario Parks 2009, p. 1); Pelee Island, the largest Canadian island within the range of the Lake Erie watersnake, contains three nature reserves: Fish Point and Lighthouse Point (combined 114 ha (282 ac)), established and managed by the Ontario Ministry of Natural Resources; Stone Road Alvar (approximately 178 ha (439 ac)), portions of which are owned by the Nature Conservancy of Canada, Ontario Nature, and Essex Region Conservation Authority (Municipality of Pelee Island 2007, p. 1); and Mill Point (1.5–2 km (0.9–1.2 mi) of shoreline habitat) under the protection of the Essex Region Conservation Authority and Ontario Nature (COSEWIC 2006, p. 8). Habitat management to maintain native plant communities and benefit species at risk (including the Lake Erie watersnake) and their habitat is ongoing on protected habitat in Canada (for examples see Dobbie 2008, Ontario Parks 2009).

Voluntary Guidelines

Destruction or modification of hibernation habitat during the winter months when Lake Erie watersnakes are using such habitat may result in mortality of individual snakes, but will not threaten the population as a whole once the protections of the Act are removed. If snakes are excavated during the hibernation season, it is unlikely that they would be able to search for and find alternate hibernacula due to cold temperatures and frozen or snow-covered ground, and would not survive exposure to winter weather. Once the species is delisted, no regulatory options will exist to address timing of impacts to hibernation habitat. To minimize impact to individual watersnakes from this threat, the Service will continue to widely distribute "Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities" (Service 2009). Further, we will continue to recommend to local governments that they adopt and broadly distribute these voluntary guidelines, and we will monitor compliance with these voluntary guidelines when the watersnake is delisted.

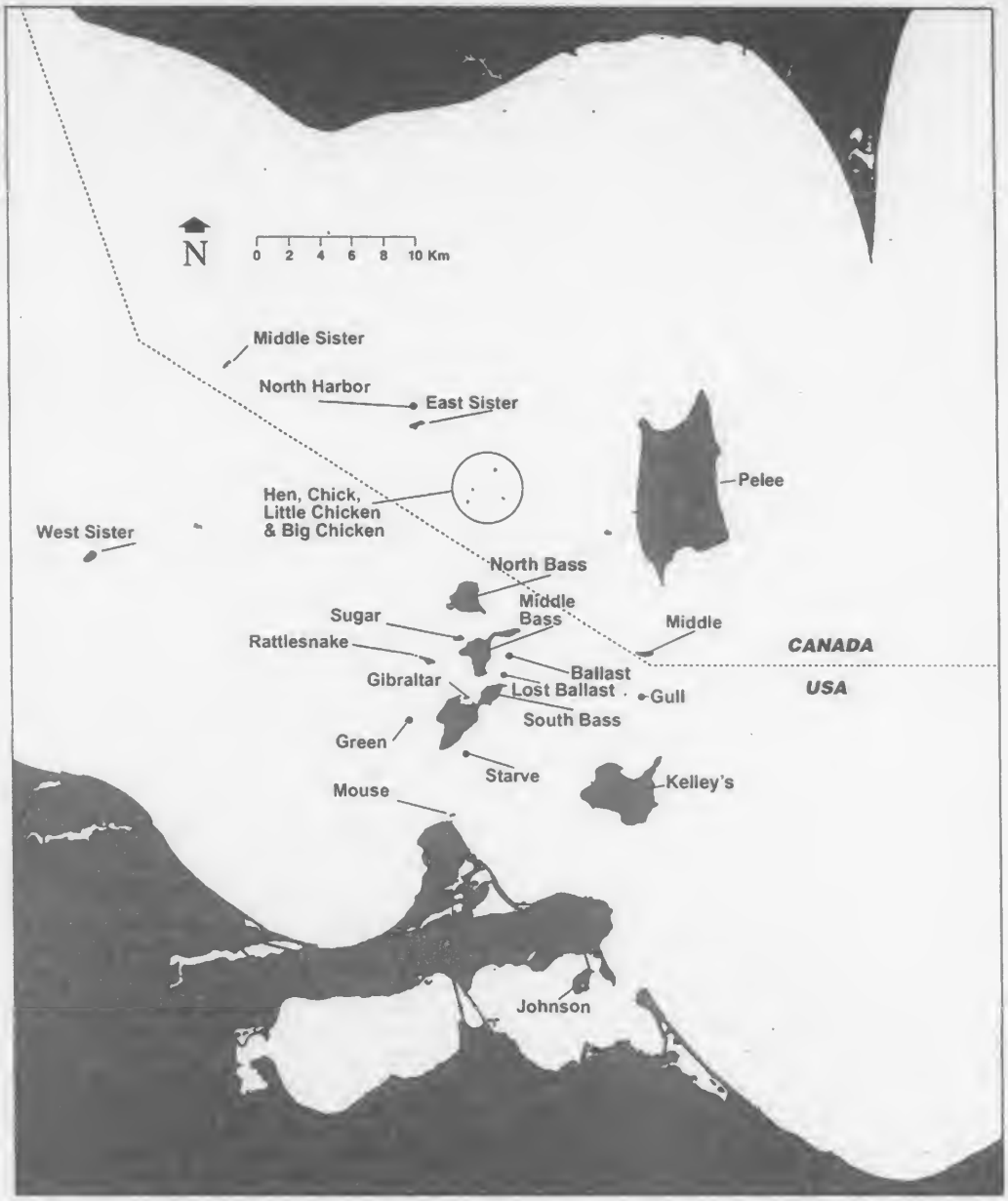
The Service initially developed Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities (Service 2009, Service 2003b) when the subspecies was listed. These voluntary guidelines were intended to substantially reduce the potential for take to occur during typical private and public land management activities such as lawn mowing, tree cutting, and excavation activities. The guidelines recommend seasonal restriction on activities such as excavation and mowing, design recommendations for shoreline structures that will enhance Lake Erie watersnake summer habitat, and suggestions for monitoring snakes during construction activities (Service 2009, p. 1–2; Service 2003b, pp. 2–4). These actions aid in avoiding and minimizing habitat loss to individual watersnakes due to typical land management actions on private property.

Though the guidelines are voluntary, they have been added as mandatory conditions on Federal permits and as reasonable and prudent measures in biological opinions and incidental take statements to avoid and minimize take during the completion of projects that required section 7 consultation or section 10 permits under the Act (for example, see Service 2008, p. 5). When the subspecies is delisted, these guidelines will still be recommended under the auspices of the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–667e) when reviewing Federal activities that are planned within Lake Erie watersnake habitat areas.

Range Curtailment

The historical range of the Lake Erie watersnake includes the offshore islands of the western Lake Erie basin in the United States and Canada as well as portions of the Catawba-Marblehead peninsula on the mainland of Ohio, though the threatened subspecies included only those Lake Erie watersnakes occurring on U.S. and Canadian islands greater than 1.6 km (1 mi) from the Ohio mainland (64 FR 47126). The U.S. islands and rock outcrops within the historical range include, but are not limited to, the islands called Kelleys, South Bass, Middle Bass, North Bass, Sugar, Rattlesnake, Green, Gibraltar, Starve, Gull, Ballast, Lost Ballast, West Sister, Mouse, and Johnson. The Canadian islands and rock outcrops within the historical range include, but are not limited to, the islands called Pelee, Middle, East Sister, Middle Sister, North Harbour, Hen, Chick, Big Chicken, and Little Chicken (figure 1).

Figure 1. Historical range of Lake Erie watersnake within the western Lake Erie basin of Ohio and Canada. Map courtesy of Barbara Ball and Department of Biological Sciences, Northern Illinois University.



At the time of listing, Lake Erie watersnakes had been extirpated from two U.S. islands within the range, Green and West Sister, and two Canadian islands, Middle Sister and North Harbour. Further, population declines documented over several decades, along with the limited geographic range and insular nature of the Lake Erie watersnake population, indicated that, without the Act's protection, further range contraction was likely.

Since the time of listing, Lake Erie watersnakes have naturally recolonized Green Island, a small island close to South Bass Island, and a viable population of adult watersnakes has persisted there for 8 years after an absence of 10 or more years (King and Stanford 2011, p. 18; King and Stanford 2009, p. 7; King 2002, p. 4). This natural recolonization demonstrates the importance of maintaining multiple subpopulations of the Lake Erie watersnake on as many islands as possible, to provide source populations for recolonization should a stochastic event occur that eliminates all or a part of the population on another island.

Lake Erie watersnakes were known to occur on West Sister Island based on specimens collected there in 1938 and 1939, but were not collected during repeated searches in the 1980s and 1990s (King *et al.* 2006a, p. 86). While it is not known why Lake Erie watersnakes disappeared from West Sister Island, it is the most isolated of the U.S. islands, located approximately 13.7 km (8.5 mi) from the mainland and approximately 20.9 km (13.0 mi) from

the nearest island. Three intensive snake surveys since the time of listing have documented two adult female watersnakes on West Sister Island, one in 2002 and one in 2008, though it is unclear if these individuals were members of a permanent resident population, or transient individuals that swam or drifted to the island (King and Stanford 2009, p. 9). King and Stanford (2009, p. 9) conclude that "Lake Erie Watersnakes remain exceedingly rare or absent from West Sister Island."

Lake Erie watersnakes also occur on islands in Canada. The most recent Committee on the Status of Endangered Wildlife in Canada (COSEWIC) Assessment and Update Status Report on the Lake Erie Watersnake in Canada (COSEWIC 2006, pp. 5–6, 12–13) concludes that within Canada the subspecies is likely restricted to four Canadian islands: East Sister, Hen, Middle, and Pelee. Population estimates have not been calculated systematically for Lake Erie watersnakes on Canadian islands as they have in the United States. As of the 2006 status assessment, population estimates for all Canadian islands combined were "likely less than 1,000 adults" (COSEWIC 2006, p. 19).

A main portion of the 2003 Recovery Plan's strategy was to ensure the persistence of multiple subpopulations of the Lake Erie watersnake on each of the large islands, as well as the small islands on which the watersnake was already present in the United States. The presence of multiple population centers helps to protect against stochastic events, such as storms, severe winters, or fire. If entire subpopulations are lost from a catastrophic event, the presence of other subpopulations provides the opportunity for individuals to recolonize the disturbed area. The chance that the species will persist over time increases with the presence of additional subpopulations. Further, the maintenance of multiple subpopulations increases the likelihood that genetic diversity that may exist across the range is maintained.

The Service and our partners have demonstrated over the past 9 years that Lake Erie watersnakes have met the population persistence criterion in the Recovery Plan (Service 2003a, pp. 28–29), including the portion of the criterion requiring a specific adult Lake Erie watersnake population estimate on each of the four large islands, and persistence of Lake Erie watersnakes on the small islands (Rattlesnake, Sugar, Gibraltar, Ballast, and Green) throughout this same period. Further, annual surveys have documented range expansion of the Lake Erie watersnake within its historical range since the time of listing, including the recolonization of Green Island. Lake Erie watersnakes also persist on four Canadian islands. Coupled, these data indicate that the population of Lake Erie watersnakes is secure across its range and is likely to persist into the foreseeable future, even if the protections of the Act are removed (see Factor D, *The Inadequacy of Existing Regulatory Mechanisms*).

Summary of Factor A: Individuals of the Lake Erie watersnake face a low amount of residual threat from habitat destruction or modification due to development within the Lake Erie islands within the foreseeable future, though the watersnake population has proven resilient to much of the development that has occurred since listing. Summer and hibernation habitat sufficient to support approximately 50 percent of the adult Lake Erie watersnake recovery population has been protected in perpetuity. Impacts to summer shoreline and foraging habitat will still be regulated by the Corps, and the Service will provide comments to avoid and minimize impacts to the Lake Erie watersnake under the authority of the Fish and Wildlife Coordination Act. Impacts to hibernation habitat will directly affect individual watersnakes if the impacts occur during the hibernation season, however, existing standardized voluntary guidelines to limit winter excavation have been and will continue to be widely distributed to address those impacts. The Lake Erie watersnake has recolonized a portion of its historical range; its adult populations have shown conclusive growth; and the recovery criteria for island-specific and overall adult population size have been substantially exceeded for the past eight years. Therefore, we determine that the present or threatened destruction, modification, or curtailment of its habitat or range, is not currently causing, or likely to cause in the foreseeable future, the subspecies to be threatened or endangered.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

We know of no recreational, commercial, or educational overutilization of the Lake Erie watersnake. Lake Erie watersnakes are not currently a collected or sought-after species, and no recreational or commercial collection of this subspecies has been documented to date. The historical collection of Lake Erie watersnakes for scientific purposes is well-documented in the final listing rule (64 FR 47126; August 30, 1999). Institutions conducting research using live vertebrate animals and receiving funding from the Public Health Service require approval of research proposals by the Institutional Animal Care and Use Committee. This oversight will help to ensure that any scientific collection will not result in overutilization of the species, to the point that population-level effects are likely to occur. Therefore, we do not believe overutilization to be a current threat to the species, nor is it likely to become a threat in the foreseeable future.

C. Disease or Predation

At the time of listing, neither disease nor predation was implicated in the decline of Lake Erie watersnakes. We currently have no data indicating that disease is a threat to the Lake Erie watersnake. Predators of the Lake Erie watersnake include a number of species native to the islands, specifically herring gull (*Larus argentatus*), great blue heron (*Ardea herodias*), robin (*Turdus migratorius*), raccoon (*Procyon lotor*), red fox (*Vulpes vulpes*), blue racer (*Coluber constrictor*), and mink (*Mustela vison*) (Camin and Ehrlich 1958, p. 510; Goldman 1971, p. 197; King 1986, p 769; King 1987, p. 242, 250; King 1989. p. 87; Stanford 2009, pers. comm.). We anticipate that other birds, predatory fish, and mammals likely prey on Lake Erie watersnakes, particularly neonate and immature snakes. Predation of individual Lake Erie watersnakes clearly is occurring; however, all of these predators are native to the islands, and the snake's population has persisted in the face of such predation both historically and currently. We have no data to indicate that there has been a change in predation pressure. As the Lake Erie watersnake population has shown steady increases despite ongoing predation pressure since the time of listing, we determine that mortality due to predation is not a substantial threat to the subspecies now, nor will it be within the foreseeable future.

D. The Inadequacy of Existing Regulatory Mechanisms

The 1999 final listing rule (64 FR 47126) describes various status designations of the Lake Erie watersnake at State, Provincial, and Federal Canadian levels, but concluded that "regulatory mechanisms are inadequate because of the small number of water snakes in preserves and the vulnerability from lack of regulatory protection outside of preserves." As described above in Factor A, *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* a substantial amount of Lake Erie watersnake habitat has been

protected since 1999 by management agreements, conservation easements, or deed restrictions. Protected habitat includes 18.25 km (11.41 mi) of summer habitat and 1.287 km² (318.18 ac) of hibernation habitat within 69 m (226 ft) of shore (Table 2). This amount of habitat is sufficient to support approximately 50 percent of the recovered population goal of 5,555 adult Lake Erie watersnakes, and is distributed throughout the U.S. range of the subspecies.

In addition to the protected habitat, since the time of listing a substantial portion of additional island habitat has been acquired by the Ohio Department of Natural Resources. These lands include 0.5 km² (123 ac) of Middle Bass Island and 2.4 km² (593 ac) of North Bass Island. The portions of these islands within 69 m (226 ft) of shore are included as protected habitat, but the remainder of these properties may also provide habitat for the 25 percent of Lake Erie watersnakes that hibernate greater than 69 m (226 ft) inland. Middle Bass Island State Park is dedicated to boating, camping, and recreation, while ODNR's portion of North Bass Island will remain primarily natural (ODNR 2004, p. 1).

Further, since the time of listing, the Lake Erie Islands Chapter of the Black Swamp Conservancy, a nonprofit land conservancy, was established and is acquiring conservation easements on island properties. All of their properties within 69 m (226 ft) of shore are included as protected habitat; however, an additional 0.04 km² (9.6 acres) of land may also provide habitat for the 25 percent of Lake Erie watersnakes that hibernate greater than 69 m (226 ft) inland. This habitat will remain in a natural state for the foreseeable future.

The Cleveland Museum of Natural History maintains multiple preserve properties on Kelleys Island. All of their properties within 69 m (226 ft) of shore are included as protected habitat; however, an additional 0.4 km² (99 acres) of land may also provide habitat for the 25 percent of Lake Erie watersnakes that hibernate greater than 69 m (226 ft) inland. This habitat will remain in a natural state for the foreseeable future.

As described under Factor A, *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* several of the islands in Canada also support Lake Erie watersnake habitat that is permanently protected: Middle Island (18.5 ha (48 ac)) is owned by Parks Canada and is part of Point Pelee National Park (Dobbie 2008, p. 8); East Sister Island (15 ha (37 ac)) is protected as a Provincial Nature Reserve by Ontario Parks (Ontario Parks 2009, p.1); Pelee Island, the largest Canadian island within the range of the Lake Erie watersnake, contains three nature reserves: Fish Point and Lighthouse Point (combined 114 ha (282 ac)), established and managed by the Ontario Ministry of Natural Resources; Stone Road Alvar (approximately 178 ha (439 ac)), portions of which are owned by the Nature Conservancy of Canada, Ontario Nature, and Essex Region Conservation Authority (Municipality of Pelee Island 2007, p. 1); and Mill Point (1.5–2 km of shoreline habitat) under the protection of the Essex Region Conservation Authority and Ontario Nature (COSEWIC 2006, p. 8). Habitat management to maintain native vegetation communities and to benefit species at risk (including Lake Erie watersnakes) and their habitat is ongoing on protected habitat in Canada (for examples, see Dobbie 2008, Ontario Parks 2009).

As discussed under Factor A, *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* since the Lake Erie watersnake was listed in 1999, destruction and modification of watersnake summer habitat has been addressed under section 7 of the Act through the Corps section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act authority. These laws provide the Service the opportunity to review and comment on all projects affecting Lake Erie watersnake foraging habitat, and many projects affecting shoreline habitat. Under these authorities, the Service has consistently recommended installation of rip-rap erosion control structures and crib docks in lieu of vertical concrete or sheet steel. This substantially reduced shoreline habitat degradation and resulted in the creation of artificial shoreline habitat for Lake Erie watersnakes on many islands.

We anticipate that similar projects impacting the islands' shorelines and the Lake Erie watersnake's summer habitat will continue into the foreseeable future. As noted above, the vast majority of these projects are regulated by section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act; and as such, the Service will still have the opportunity to review and comment on these projects via the Corps' Public Notice process, even when the watersnake is delisted. The Service plans to continue recommending rock structures as opposed to vertical structures on these types of projects, under the authority of the Fish and Wildlife Coordination Act. This regulatory mechanism will remain in place into the foreseeable future, allowing the Service to maintain some oversight and input relative to the condition of island shorelines for the Lake Erie watersnake.

Currently, the Lake Erie watersnake is listed as a State endangered species under the Ohio Revised Code 1531.25. State endangered status is defined as: "A native species or subspecies threatened with extirpation from the state. The danger may result from one or more causes, such as habitat loss, pollution, predation, interspecific competition, or disease" (ODNR 2008, p. 1). Coordination with ODNR Division of Wildlife indicates that the State supports delisting the Lake Erie watersnake as they believe that "the snake population appears secure and growing throughout its range," and, "[t]he snake warrants removal from Federal protection" (ODNR 2009, p. 1). ODNR Division of Wildlife has proposed that, upon Federal delisting, the Lake Erie watersnake would be reclassified to State threatened status, and is likely to remain as such for the foreseeable future (ODNR 2009, p. 1). State threatened status "affords a heightened perception of importance and conservation need by the public," and "provides a mechanism for filing criminal charges against people who are responsible for direct mortality" (ODNR 2009, p. 1). Therefore, State take prohibitions reducing the threat from intentional human persecution will still exist when the Lake Erie watersnake is federally delisted.

The province of Ontario, Canada, designated the Lake Erie watersnake an endangered species under their Endangered Species Act in 1977, while COSEWIC listed the Lake Erie watersnake as endangered in April 1991 (COSEWIC 2006, pp. 16, 19). Upon the passage of Canada's Species At Risk Act (SARA) in 2003, the Lake Erie watersnake continued to be listed under Schedule 1 as an endangered species (Canada Gazette Part II 2009, p. 404). Once delisted in the United States, the Lake Erie watersnake will continue to be protected under these Federal and Provincial laws. The SARA (2002) makes it an offense to "kill, harm, harass, capture or take an individual of a listed species that is extirpated, endangered or threatened; possess, collect, buy, sell or trade an individual of a listed species that is extirpated, endangered or threatened, or its part or derivative; or, damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species

if a recovery strategy has recommended its reintroduction."

Further, a recovery team for the Lake Erie watersnake has been established in Canada, and a preliminary draft Recovery Strategy has been developed (Government of Canada 2010, p. 4) to guide recovery efforts. These mechanisms and approaches to guide recovery of the Lake Erie watersnake in Canada are similar to those implemented in the United States. We have no reason to believe that these actions will be any less effective in Canada than they have been in the United States. Further, because Lake Erie watersnakes typically show site fidelity (King 2003, pp. 4, 11–17) and have only rarely been documented to move between islands (King 2002, p. 4), the status of the watersnake population on the Canadian islands is not likely to influence the status of the watersnake populations on U.S. islands.

In summary, substantial protected habitat and permanently conserved natural habitat on the U.S. western Lake Erie islands have been established since the time of listing. These areas are sufficient to support approximately 50 percent of the recovery population goal of 5,555 adult Lake Erie watersnakes. Additional protected habitat exists in Canada. Some jurisdiction over impacts to Lake Erie watersnake summer habitat will be maintained post-delisting via the Corps section 404 and section 10 authorities. Further, the proposed State reclassification of the Lake Erie watersnake to a threatened designation will maintain the existing prohibition on intentional mortality of watersnakes and will provide a mechanism for filing criminal charges should intentional direct mortality occur. Lake Erie watersnakes maintain endangered status in Canada and Ontario, and recovery actions in Canada are ongoing. We have determined that these regulatory mechanisms and cooperative agreements are sufficient to ensure the persistence of Lake Erie watersnakes in the foreseeable future, and, therefore, Lake Erie watersnakes will not be threatened by the inadequacy of existing regulatory mechanisms post-delisting.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Human Persecution and Other Human-Induced Mortality

As indicated in the final listing rule for the Lake Erie watersnake (64 FR 47131; August 30, 1999), "persecution by humans is the most significant and well documented factor in the decline of Lake Erie water snakes." Therefore, the recovery strategy for the watersnake focused heavily on public outreach and education in an attempt to change the negative perception and behavior of some island residents and visitors toward the watersnake. As described in detail in *Recovery* above, public opinion surveys were conducted to gauge island landowner perception of the Lake Erie watersnake, and past, current, and likely future behavior toward the snake (Olive 2008, Wilkinson 2008).

Generally, the survey results indicate that Federal, State, and nongovernmental organizations' outreach and education campaigns are reaching the vast majority of island residents, and are helping to increase their access to information about the watersnake (Wilkinson 2008, p. 5). While it is apparent that not all residents feel positively toward the snake, it is very notable that, despite human persecution being the most significant factor in the historical decline of the Lake Erie watersnake, only about 4 percent of respondents indicated they had knowingly killed a watersnake since the time of listing, and only about 14 percent of respondents said they would knowingly kill a watersnake if it was no longer protected by State or Federal laws (Wilkinson 2008, p. 6). Of those Middle Bass Island residents interviewed by Olive (2008, pp. 112–113, 153), 7 percent admitted to killing a snake and 18 percent admitted they might kill a snake while it is listed. We interpret these responses to indicate that, while individual watersnakes still face some human persecution, the vast majority of islanders would not resort to lethal means if they encountered watersnakes on their property.

Despite the admitted intentional mortality documented by both Wilkinson (2008, p. 6) and Olive (2008, pp. 112–113, 153), adult Lake Erie watersnake populations have increased substantially since the time of listing, both across the U.S. range and on each large island (King and Stanford 2010a, p. 11; King and Stanford 2009, pp. 6–7). This indicates that the adult Lake Erie watersnake population can tolerate some degree of intentional mortality of individual snakes and still persist at a recovery level.

Public opinion of the Lake Erie watersnake varies widely among those who support it, those who have no opinion, and those who dislike or fear the watersnake specifically, or snakes in general. Outreach efforts have reached nearly all island residents, increasing access to information about the Lake Erie watersnake, including nonlethal ways to address nuisance snakes. Opinion surveys indicate that most people do not now, and will not in the future, kill Lake Erie watersnakes; however, many people indicate that the sheer number of snakes along the shoreline has become a nuisance, and this may contribute to negative feelings toward the snake. As Lake Erie watersnake numbers have rebounded, and a significant amount of habitat has now been permanently protected to support its populations, the Lake Erie watersnake population can withstand a limited amount of intentional mortality. While the threat of intentional mortality likely can never be completely eliminated, results of public opinion surveys indicate that the amount of mortality anticipated from intentional human persecution on its own and with other residual threats is not likely to cause the subspecies to become threatened or endangered again within the foreseeable future.

Continued outreach regarding the Lake Erie watersnake after delisting will be important in ensuring that island landowners and visitors maintain access to information about the biology of the snake, its conservation status, and its role in the ecosystem. Following delisting, outreach will continue to focus on changing the negative perceptions and behavior of some island residents and visitors toward the watersnake. Outreach activities will continue through various partners, focusing on establishing permanent informational displays at specific island locations. For example, an Ohio Environmental Education Grant was recently awarded to the Lake Erie Islands Nature and Wildlife Center and Lake Erie Islands Historical Society to design interpretive posters and a permanent display that specifically address the Lake Erie watersnake, its current status, and conservation needs (Stanford 2009, pers. comm.).

The display will be housed at the Lake Erie Islands Nature and Wildlife Center on South Bass Island while the posters will be made available to local organizations and school teachers and will promote consistent education among a variety of audiences and locations (Stanford 2009, pers. comm.). The permanent display at the Lake Erie Islands Nature and Wildlife Center will provide education for the entire island community, as well as the estimated 5,000–10,000 visitors anticipated per year (Stanford 2009, pers. comm.). This display will explain the current Lake Erie watersnake legal status and the protective guidelines, which will be updated when the snake is delisted (Stanford 2009, pers. comm.). Similarly, a permanent display on the Lake Erie watersnake is currently being developed at ODNR's Aquatic Visitor's Center on

South Bass Island. Additional signage or displays about the Lake Erie watersnake are planned for ODNR's Middle Bass Island State Park (Service 2008, p. 5) and the Scheef East Point Nature Preserve on South Bass Island (ODNR 2007, pp. 6, 9).

In addition to intentional human persecution, several sources of accidental human-induced mortality were examined to determine to what degree they contribute to overall mortality of Lake Erie watersnakes, and if they are a threat to the population. These include mortality from hook and line fishing, roadkill mortality, contaminants, and the interaction between Lake Erie watersnakes and invasive species. These potential threats are discussed in detail under *Recovery*, above. Based on recent research, accidental human-induced mortality occurring from boating, fishing, and roadkill events does not pose a threat to the adult Lake Erie watersnake population (King 2007, pp. 5–6; Stanford 2004, p. 4). Further, invasive species and contaminants do not threaten the adult Lake Erie watersnake population (Fernie *et al.* 2008, p. 334; Bishop and Rouse 2006, pp. 452, 454, 456; King *et al.* 2006b, pp. 111–113) now or in the foreseeable future.

One new source of potential injury and mortality to Lake Erie watersnakes has recently been identified. In May 2008, erosion control blankets were placed over an excavated area on Gibraltar Island, a small Lake Erie island. Within three days, 25 adult Lake Erie watersnakes became entangled in the erosion control blankets that were placed over approximately 1347 m^2 (0.33 ac) (Stanford 2008, pers. comm.). The erosion control blankets were single net, filled with straw, and photodegradable within 45 days (Stanford 2008, pers. comm.). Entanglement occurred on the first warm days of the summer, and we assume that many snakes were emerging to bask, forage, and mate. When the entangled snakes were discovered, they were cut from the blankets; however, 14 adult male Lake Erie watersnakes died (Stanford 2008, pers. comm.). Mortality was thought to be due to suffocation or sun exposure, though necropsies were not conducted. Upon discovery of the snakes, all of the erosion mesh was immediately removed (Stanford 2008, pers. comm.).

Since this event, when consulting on projects on the islands, the Service has requested that erosion control blankets not be used (for example, see Service 2008, p. 2). When the species is delisted, we will continue to include this recommendation under the authority of the Fish and Wildlife Coordination Act when reviewing Federal activities on the islands. Additionally, we have incorporated this recommendation into the revised Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities (Service 2009, p. 2), which will be widely distributed, as described under Factor A above. We believe that, through these mechanisms, entanglement in erosion control blankets or similar materials will not pose a substantial threat to the Lake Erie watersnake population now or in the foreseeable future.

Small Population Size

As noted in the listing document (64 FR 47126; August 30, 1999), all of the known threats were exacerbated by the small population size and the insular distribution of Lake Erie watersnakes. According to the listing document, "the current low population densities and insular distribution of Lake Erie watersnake make them vulnerable to extinction or extirpation from catastrophic events, demographic variation, negative genetic effects, and environmental stresses such as habitat destruction and extermination" (64 FR 47126; August 30, 1999). Since the time of listing, the adult Lake Erie watersnake population has increased substantially. Annual adult Lake Erie watersnake population censuses and estimates indicate that the population is growing by approximately 6 percent per year, and that the current snake population far outnumbers the goal of 5,555 adult Lake Erie watersnakes required for the population to be recovered (King and Stanford 2011, p. 17; King and Stanford 2009, pp. 6–7; Service 2003a, pp. 28–29, 33).

King and Stanford (2009, pp. 5–8) recently analyzed Lake Erie watersnake survey data from the period 1996–2008, and used Program MARK to model adult survival, and used Jolly-Seber population estimates to estimate sex ratios in adult Lake Erie watersnakes. The generated estimates for adult sex ratio (1.6 male: 1 female) and adult survival (0.70) proved to be different than the sex ratio and adult survival rates used in setting the overall Population Persistence criterion of the 2003 Lake Erie watersnake Recovery Plan at 5,555 adult Lake Erie watersnakes. Incorporating the new adult sex ratio and adult survival estimates into the formula used in the Recovery Plan to generate the adult Lake Erie watersnake population goal (Service 2003a, p. 31) yielded a revised population goal of 6,100 adult Lake Erie watersnakes (King and Stanford 2009, p. 8).

King and Stanford (2009, p. 8) note that, "the estimated adult Lake Erie watersnake population size exceeds this value [6,100] for all years from 2002–2008." Further, King and Stanford (2009, p.8) caution that the adult population goals "are based on a series of approximations. * * * As a consequence, such estimates are best viewed as "educated guesses" that may change as more information is obtained." Irrespective of which adult population goal is used, 5,555 as outlined in the Recovery Plan (Service 2003a, p. 28) or 6,100 as recently recalculated using more current information (King and Stanford 2009, p. 8), the adult Lake Erie watersnake population has met and exceeded both of these goals for nine consecutive years (2002–2010) (King and Stanford 2011, p. 17). Therefore, we no longer find that low population numbers increase the severity of any potential threats.

The most recent COSEWIC Assessment and Update Status Report on the Lake Erie Watersnake in Canada (COSEWIC 2006, pp. 5–6, 12–13) concludes that in Canada the subspecies is likely restricted to four Canadian islands: East Sister, Hen, Middle, and Pelee. Further, it indicates that the population trajectory is declining from historic population sizes, but may have stabilized (COSEWIC 2006, p. 18). Population estimates have not been calculated systematically for Lake Erie watersnakes on Canadian islands as they have in the United States. As of the 2006 status assessment, population estimates for all Canadian islands combined were "likely less than 1,000 adults" (COSEWIC 2006, p. 19). Because Lake Erie watersnakes typically show site fidelity (King 2003, pp. 4, 11–17) and have only rarely been documented to move between islands (King 2002, p. 4), the status of the watersnake population on the Canadian islands is not likely to greatly influence the status of the watersnake populations on U.S. islands or as a whole.

Further, the presence of multiple subpopulations distributed throughout the range of the subspecies provides assurance that genetic diversity is being maintained, and provides multiple source populations should one subpopulation be eliminated due to a catastrophic event. Because Lake Erie watersnakes are an island-dwelling subspecies, and their range is naturally restricted to a series of relatively small islands in western Lake Erie, it is likely that they will always have a population size that may be considered small relative to species with a much larger

range. However, analysis of Lake Erie watersnake population size, as described in the Recovery Plan (Service 2003a) indicates that a census population size of 5,555 adult watersnakes constitutes a viable, persistent population. Therefore, we no longer find that the insular distribution of the Lake Erie watersnake increases the severity of any potential threats.

Climate Change

Global climate change due to trapping of greenhouse gases, particularly carbon dioxide, within the atmosphere is widely predicted by scientists all over the world (IPCC 2007, p. 9). Within the Great Lakes region and Ohio specifically, climate change is expected to bring increased temperatures, increased but altered distribution patterns of precipitation, and greater intensity of extreme weather events including drought, storms, floods, and heat waves (Karl *et al.* 2009, p. 117; Kling *et al.* 2003, pp. 17–18). Winters will be of shorter duration and warmer temperatures and snow melt will occur earlier (Kling *et al.* 2003, pp. 17–18). These projected changes in seasonal temperature patterns may cause Lake Erie watersnakes to hibernate for shorter periods of time, to seek cover more frequently during the active season to escape extreme weather events, and to forage more frequently than they do now to compensate for an extended active season. It is unlikely that these potential behavioral changes brought on by warmer temperatures would constitute a threat to the species.

Warmer temperatures and decreased ice cover across the Great Lakes region predicted by multiple models could result in warmer water temperatures and water levels between 0.3–0.6 m (1–2 ft) below current levels in Lake Erie (Karl *et al.* 2009, pp. 119, 122; Kling *et al.* 2003, pp. 23–24). Decreases in Lake Erie water levels, which define the boundaries of the western Lake Erie islands, can lead to increases in the area of the island exposed, expansion or loss of coastal wetland habitat (depending on elevation and topography), changes in extent or composition of island shoreline habitat, and changes in erosion and accretion patterns. Over all, lower water levels will likely create additional linear footage of island shorelines within the western Lake Erie basin, potentially expanding Lake Erie watersnake summer terrestrial habitat areas. Portions of former foraging habitat may dry, requiring watersnakes to seek out additional foraging territories. Water depth decreases of 0.3 to 0.6 m (1 to 2 ft) are unlikely to disturb large portions of Lake Erie watersnake foraging habitat. As noted previously, Lake Erie watersnakes' diets are composed primarily of round goby, which are plentiful in the warm waters of the western Lake Erie island region, and would likely remain plentiful despite potential effects from climate change. It is unlikely that lower water levels would significantly change Lake Erie watersnake behavior, or represent a threat to the population.

Climate change projections for Lake Erie indicate that increases in water temperature during the summer may result in lower dissolved oxygen (hypoxia), and prolonged stratification of lake water, resulting in an increase in the potential for dead-zones to occur or expand across time and space (Karl *et al.* 2009, p. 122; Kling *et al.* 2003, p. 22). Further, goby are susceptible to hypoxic and anoxic events and may die when dead-zones form. However, the western Lake Erie basin is generally shallow, with an average depth of 7.4 m (24 ft), and stratification is rare here, and brief when it does occur (USEPA and Environment Canada 2008, p. 18), and therefore we do not anticipate a threat to the population from this projected change. However, low dissolved oxygen could also result in more easily mobilized mercury and other contaminants that exist in Lake Erie sediments, and introduction of increased contaminant loads into the food chain (Karl *et al.* 2009, p. 122). It is possible that additional contaminant loads could result in physiological or reproductive impacts to Lake Erie watersnakes, but what the effective concentrations of these contaminants are is unknown. As discussed above, contaminants have been detected in Lake Erie watersnakes in relatively high levels, but have not been documented to cause adverse effects; therefore, we do not anticipate that a potential increase in contaminant mobilization within the waters of Lake Erie due to warming water temperatures poses a threat to Lake Erie watersnakes.

Warmer lake waters are anticipated to result in coldwater habitat being eliminated or shifting north in some areas, potentially changing the fish communities in these areas (Karl *et al.* 2009, p. 122; Kling *et al.* 2003, pp. 53–54). However, the western basin of Lake Erie is composed of warm water habitat already (USEPA and Environment Canada 2008, p. 18) and is too shallow to support coldwater habitat. Therefore, we do not anticipate shifts in fish species composition within the western Lake Erie basin due to climate change, and subsequently no threat to the Lake Erie watersnake is anticipated.

At this time, we do not have sufficient information to document that climate change poses a significant threat to the continued existence of the Lake Erie watersnake.

Summary of Factor E: Intentional human-induced mortality is a residual threat to the Lake Erie watersnake. However, Lake Erie watersnake numbers have rebounded, and a significant amount of habitat has now been protected to support Lake Erie watersnake populations. The Service believes that the Lake Erie watersnake population can withstand a limited amount of intentional mortality and still maintain recovery-level population size. While the threat of intentional mortality likely can never be completely eliminated, results of public opinion surveys indicate that the amount of mortality anticipated from intentional human persecution on its own and with other residual threats is not likely to cause the subspecies to become threatened or endangered again within the foreseeable future.

Unintentional human-induced mortality, such as occurs from road-kill, hook and line fishing, contaminants, and impacts of invasive species, has been researched throughout the recovery period and has not been documented to cause take at levels sufficient to impact the adult Lake Erie watersnake population. Unintentional mortality through entanglement in erosion control fabrics, though rare, will be addressed through continued outreach and through coordination with the Corps on projects that impact Lake Erie watersnake summer habitat. Lake Erie watersnake persistence is no longer threatened by small population size or limited distribution, as they have substantially increased in number and expanded in range since the time of listing, and protected habitat sufficient to support 50 percent of the recovery population is distributed across all of the large islands. Finally, we have assessed the potential for climate change to impact the Lake Erie watersnake based on projected habitat changes in Great Lakes-regional and Ohio models, and have determined that we do not have sufficient information to document that climate change poses a significant threat to the continued existence of the Lake Erie watersnake. Therefore, we find that other natural or man-made factors, coupled with any other residual threats are not likely to cause the subspecies to become threatened or endangered again within the foreseeable future.

Summary of Threats

As demonstrated in our *Summary of Factors Affecting the Species,* threats to the Lake Erie watersnake have been abated or sufficiently minimized over the U.S. range of the subspecies. Recovery actions and a reduction or abatement of threats have lead to demonstrated population growth at multiple sites, increasing population estimates, range expansion within the historical range, proof of resiliency of the Lake Erie watersnake to some habitat modification, and protection of a significant amount of summer and hibernation habitat throughout the range.

The biological principles under which we evaluate the rangewide population status of the Lake Erie watersnake relative to its long-term conservation are representation, redundancy, and resiliency (Groves, *et al.* 2003, pp. 30–32). At the time of listing, the Lake Erie watersnake population had declined substantially from historical numbers, and its range had contracted due to extirpation from several U.S. and Canadian islands. Since listing, population numbers have rebounded, real population growth at multiple sites has been documented, and the range has expanded to include multiple stable or increasing subpopulations across most of its historical range (West Sister Island is the only U.S. exception, as discussed in Factor A above) (King and Stanford 2009, pp. 6–9). Thus, there is adequate representation (occupancy of representative habitats formerly occupied by the Lake Erie watersnake across its range) and redundancy (distribution of populations in a pattern that offsets unforeseen losses across a portion of the range) to support the long-term persistence of the Lake Erie watersnake.

The Lake Erie watersnake has demonstrated resilience and behavioral plasticity to both ecological and human-induced changes in its environment in the recent past. As described above, the Lake Erie watersnake has made a nearly complete dietary shift since the invasion of the round goby in the early 2000s, indicating flexibility in prey selection (King *et al.* 2006b, p. 110). We now know that crib docks and armored shorelines provide valuable Lake Erie watersnake summer habitat and that the Lake Erie watersnake can persist in stable numbers in human-dominated island landscapes, as long as rocky or vegetated shorelines are present. Further, we have documented multiple situations where Lake Erie watersnakes have been able to identify and successfully use new hibernation sites when historical hibernation sites are destroyed or unavailable, indicating that the Lake Erie watersnake is more resilient to certain types of habitat modification than was previously known. The Lake Erie watersnake has also demonstrated its ability to naturally recolonize historical habitat after an absence of many years. Thus, despite any residual threats to individual watersnakes, we find that the Lake Erie watersnake has sufficient resiliency to persist within the foreseeable future.

Intensive adult Lake Erie watersnake censuses and subsequent analysis of the census data over the past 10 years have demonstrated a growing population, range expansion, and successful reproduction over multiple generations (King and Stanford 2009, pp. 6–7, 9). There is no evidence of recent extirpations of subpopulations, nor of a population sink. As previously described, habitat destruction and modification are not thought to be significant threats to the population now or within the foreseeable future (see Factor A above).

Recovery efforts have provided increased attention and focus on the Lake Erie watersnake and the habitat upon which it depends. Numerous conservation actions have been implemented by government agencies, universities, and conservation groups. Most notably, these include intensive research and population monitoring of Lake Erie watersnakes by NIU and other partners, and land purchase and conservation on many islands within the range of the subspecies by ODNR, LEIC–BSC, Western Reserve Land Conservancy, and Put-in-Bay Township Park District.

Lake Erie watersnakes persist in Canada on 4 islands, though population estimates have not been calculated systematically for Lake Erie watersnakes on Canadian islands as they have in the United States. Protected habitat on Canadian islands totals 325.5 ha (806 ac), and a Recovery Team and Draft Recovery Strategy have been established to guide recovery in Canada. Once delisted under the ESA, Lake Erie watersnakes occurring in Canada will remain protected by SARA and the Ontario Endangered Species Act. We have no reason to believe that the recovery actions implemented in Canada will be any less effective than they have been in the U.S. Further, because Lake Erie watersnakes typically show site fidelity (King 2003, pp. 4, 11–17) and have only rarely been documented to move between islands (King 2002, p. 4), the status of the watersnake population on the Canadian islands is not likely to influence the status of the watersnake populations on U.S. islands.

In summary, all of the past, existing, or potential future threats to the Lake Erie watersnake, either alone or in combination, have either been eliminated or largely abated throughout all of its range. The major factors in listing the Lake Erie watersnake were human persecution and habitat destruction and modification. These threats have been abated as evidenced by the substantial recovery of the snake. Therefore, we have determined that the Lake Erie watersnake is no longer in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range.

Significant Portion of the Range Analysis

Having determined that the Lake Erie watersnake is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we must next consider whether the subspecies is in danger of extinction or is likely to become so in any significant portion of its range.

A portion of a species' range is significant if it is part of the current range of the species (species used here is as defined in the Act, to include species, subspecies, or DPS) and if it is important to the conservation of the species because it contributes meaningfully to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species.

Applying the definition described above for determining whether a species is endangered or threatened in a significant portion of its range, we first addressed whether any portions of the range of the Lake Erie watersnake warranted further consideration. We examine whether any available information indicates a portion of the species' range may be both significant and threatened or endangered. As described in Factor A and Factor E above, some threats to the species will remain post-delisting, primarily loss of hibernation habitat during the winter hibernation season and intentional human persecution. These threats exist across the range of the species, and are not concentrated in any one area. We concluded, however, that these threats were not substantial enough to pose a threat to the viability of the subspecies or pose a threat of extirpation to the species in any portion of its range. In addition, we have concluded that while movement between islands is rare, it occurs frequently enough that the species has demonstrated an ability to

recolonize historical habitat and its distribution across multiple islands provides multiple source populations should one subpopulation be eliminated due to a catastrophic event.

We conclude that the available information does not indicate that any portion of the species range is likely to be threatened or endangered. If no portion is likely to be threatened or endangered, there is no purpose to examining what portions may be significant. Therefore, based on the discussion of the threats above, we do not foresee the loss or destruction of any portions of the subspecies' range such that our ability to conserve the subspecies would be decreased. Therefore, we find that the Lake Erie watersnake is not in danger of extinction and is not likely to become endangered in the foreseeable future throughout all or a significant portion of its range.

Effects of the Rule

This rule revises 50 CFR 17.11(h) to remove the Lake Erie watersnake from the List of Endangered and Threatened Wildlife. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, no longer apply to this species. Federal agencies are no longer required to consult with us if any action they authorize, fund, or carry out may affect the Lake Erie watersnake.

Post-Delisting Monitoring Plan

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than 5 years for all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If, at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

A post-delisting monitoring (PDM) plan has been developed for the Lake Erie watersnake, building upon and continuing the research that was conducted during the listing period. Public and peer review comments submitted in response to the draft post-delisting monitoring plan have been addressed within the body of the plan and summarized in an Appendix to the plan. In summary, the plan proposes to: (1) Conduct annual adult Lake Erie watersnake population censuses; (2) conduct diet composition studies and round goby abundance surveys; (3) monitor all areas included as protected habitat; (4) conduct public opinion surveys; and (5) monitor implementation of voluntary guidelines.

The plan proposes to conduct annual adult Lake Erie watersnake population censuses, as have occurred throughout the listing period, for a period of 5 years post-delisting. The data collected will be used to generate annual adult Lake Erie watersnake population estimates for the population as a whole, and for each of the four large islands, using the same methods as used previously (King *et al.* 2006a, pp. 88–91). During years one, three, and five, the collective data will be used to calculate lambda (λ), the population growth parameter, as described in King and Stanford (2009, pp. 5–7). Annual reports detailing the population estimates and population growth (if applicable) will be submitted to the Service and ODNR upon completion of data analysis by the individuals or groups conducting the census.

The diet of the Lake Erie watersnake underwent a dramatic change following the invasion of the North American Great Lakes by the round goby with round gobies now constituting more than 90 percent of prey consumed, and possibly fueling Lake Erie watersnake population recovery (King *et al.* 2006b, King *et al.* 2008, Jones *et al.* 2009). Lake Erie watersnake diet composition studies will be conducted during years three and four, as will round goby local abundance surveys. The data gathered from these studies will be used to evaluate round goby availability as a prey item for the snake. Researchers conducting these studies will actively look for indications of changing predator-prey interactions including potential loss of prey base that may lead to watersnake population declines. Results of the diet composition studies will be summarized in the annual reports during years 3 and 4. Results of the round goby local abundance surveys will be submitted in a final report to the Service after the surveys are completed in year 4.

Additionally, all areas included as protected habitat will be monitored once per year, in collaboration with partners that manage the protected habitat (for example, ODNR, LEIC–BSC). The monitoring will ensure that the management plans, conservation easements, or other documents are being implemented as agreed, and that Lake Erie watersnakes or suitable habitat persists on the site. Written documentation of the protected habitat monitoring will be filed in the Service's Ohio Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public opinion surveys will be conducted during year four of the post-delisting monitoring. These surveys will follow the same protocol and ask similar questions as the survey conducted in 2008, and responses will be compared to determine if and how public opinion of Lake Erie watersnakes may be changing, and if and to what extent human persecution may be impacting the Lake Erie watersnake population post-delisting.

During each year of the post-delisting monitoring period, the Service will coordinate with local government agencies on Kelleys, Middle Bass, and South Bass Islands, to monitor compliance with the "Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities" (Service 2009). Documentation of local government responses will be filed in the Service's Ohio Field Office (see **FOR FURTHER INFORMATION CONTACT**). Compliance with the voluntary guidelines will be used to assess the extent to which mortality of Lake Erie watersnakes due to excavation activities during the hibernation period may be affecting the adult watersnake population.

The post-delisting monitoring plan identifies measurable management thresholds and responses for detecting and reacting to significant changes in Lake Erie watersnake protected habitat, distribution, and persistence. If declines are detected equaling or exceeding these thresholds, described below, the Service in combination with other post-delisting monitoring participants will investigate causes of these declines, including considerations of habitat changes, substantial human persecution, stochastic events, or any other significant evidence. The result of the investigation will be to determine if the Lake Erie watersnake warrants expanded monitoring, additional research, additional habitat protection, or resumption of Federal protection under the Act.

The management thresholds for determining how the Service will respond to various monitoring outcomes are as follows:

(1) Post-delisting monitoring indicates that the species remains secure without the Act's protections if all the following are met: (a) Realized population growth parameter, lambda (λ), is greater than or equal to 1.0 for two out of three periods for which it is calculated, including the last period, (b) the adult population estimates are greater than or equal to 5,555 overall, and (c) each of the four large islands' subpopulation estimates are greater than or equal to the goals defined in the recovery plan (Service

2003a, pp. 28–29): Kelleys Island, 900; South Bass Island, 850; Middle Bass, 620; and North Bass, 410 (Service 2003a, pp. 28–29). Under these circumstances there would be no reason to relist the species, or continue PDM.

(2) Post-delisting monitoring indicates that the species may be less secure than anticipated at the time of delisting, but information does not indicate that the species meets the definition of threatened or endangered if the realized population growth parameter, lambda (λ), is less than 1.0 for two consecutive periods for which it is calculated. Should this situation occur, the Service would look closely at the results of the dietary study, round goby local abundance, public opinion survey, status of protected habitat, and implementation of voluntary guidelines to determine if any residual threats or concerns may be contributing to population declines. Further we will consider if other emerging threats, for example new invasive species or communicable diseases, may be impacting the Lake Erie watersnake population. Variable courses of action may be considered to address any residual or emerging threats.

The Service will also consider whether the population may be reaching carrying capacity and these population declines are a result of normalization around carrying capacity. If the population growth parameter was less than 1 for the first two consecutive periods (Years 1 and 3, 2011 and 2013), PDM would continue as planned, but population growth would be calculated in Year 4 as well. If the population growth parameter was less than 1 for the last two consecutive periods (Years 3 and 5, 2013 and 2015) the Service would extend the PDM period for the Lake Erie watersnake for 2 additional years. All relevant data would be examined to ensure that the population does not meet the definition of threatened or endangered.

(3) Post-delisting monitoring yields substantial information indicating threats are causing a decline in the species' status since delisting, such that listing the species as threatened or endangered may be warranted if realized population growth parameter, λ, is less than 1.0 for three consecutive periods for which it is calculated. Should this situation occur, the Service would look closely at the results of the dietary study, round goby local abundance, public opinion survey, status of protected habitat, and implementation of voluntary guidelines to determine if any residual threats or concerns may be contributing to population declines. Further we will consider if other emerging threats, for example new invasive species or communicable diseases, may be impacting the Lake Erie watersnake population. Variable courses of action may be considered to address any residual or emerging threats. The Service will also consider whether the population may be reaching carrying capacity and these population declines are a result of normalization around carrying capacity. Further, the Service would consider whether listing the Lake Erie watersnake as threatened or endangered is warranted. If listing is not warranted, PDM would be extended for 2 additional years to continue to monitor Lake Erie watersnake population trends.

(4) Post-delisting monitoring documents a decline in the species' probability of persistence, such that the species once again meets the definition of a threatened or endangered species under the Act if realized population growth parameter, λ, is less than 1.0 for two consecutive periods for which it is calculated, and one of the two following situations occurs: Range-wide adult Lake Erie watersnake population estimate is less than the recovery goal of 5,555 during the most recent census, or one or more of the large island subpopulation estimates is less than the population recovery goal specified in the recovery plan (Service 2003a pp. 28–29), when using the Jolly-Seber method of population estimation (Jolly 1965, Seber 1965).

The Service will complete a final report at the end of the 5-year post-delisting monitoring period, assessing the current status of the Lake Erie watersnake population. It is the intent of the Service to work with all of our partners toward maintaining the recovered status of the Lake Erie watersnake.

The final post-delisting monitoring plan is available on the Service's Midwest region Web site: *http://www.fws.gov/midwest/endangered.*

Required Determinations

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

Office of Management and Budget (OMB) regulations at 5 CFR 1320 implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that "ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For purposes of this definition, employees of the Federal Government are not included.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. This rule does not include any new collections of information that require approval by OMB under the Paperwork Reduction Act. We do not anticipate a need to request data or other information from 10 or more persons during any 12-month period to satisfy monitoring information needs. If it becomes necessary to collect standardized information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB. We anticipate requesting data or other information from 10 or more persons during public opinion surveys planned in 2014. Prior to conducting collection of standardized information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations adopted under section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands affected by this rule.

References Cited

A complete list of all references cited in this rule is available on the Internet

at *http://www.regulations.gov*, or upon request from the Field Supervisor, Columbus, Ohio Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author(s)

The primary authors of this document are the staff members of the Columbus, Ohio Field Office, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by removing the entry "Snake, Lake Erie water" under "Reptiles" from the List of Endangered and Threatened Wildlife.

Dated: July 27, 2011.

James J. Slack,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2011–20104 Filed 8–15–11; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 75, No. 158
Tuesday, August 16, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Doc. No. AMS–FV–11–0062; FV11–984–1 PR]

Walnuts Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Walnut Board (Board) for the 2011–12 and subsequent marketing years from $0.0174 to $0.0175 per kernelweight pound of assessable walnuts. The Board locally administers the marketing order which regulates the handling of walnuts grown in California. Assessments upon walnut handlers are used by the Board to fund reasonable and necessary expenses of the program. The marketing year begins September 1 and ends August 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by September 15, 2011.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; *Fax:* (202) 720–8938; or *Internet: http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jeff Smutny, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; *Telephone:* (559) 487–5901, *Fax:* (559) 487–5906, or *E-mail: Jeffrey.Smutny@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; *Telephone:* (202) 720–2491, *Fax:* (202) 720–8938, or *E-mail: Laurel.May@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable walnuts beginning on September 1, 2011, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Board for the 2011–12 and subsequent marketing years from $0.0174 to $0.0175 per kernelweight pound of assessable walnuts.

The California walnut marketing order provides authority for the Board, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are growers and handlers of California walnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2010–11 and subsequent marketing years, the Board recommended, and USDA approved, an assessment rate of $0.0174 per kernelweight pound of assessable walnuts that would continue in effect from year to year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on June 9, 2011, and unanimously recommended 2011–12 expenditures of $7,402,450 and an assessment rate of $0.0175 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were $6,812,000. The assessment rate of $0.0175 is $0.0001 per pound higher than the rate currently in effect. The quantity of assessable walnuts for the 2011–12 marketing year is estimated at 470,000 tons (inshell), which is 35,000 tons more than the 435,000 during the 2010–11 marketing year. At the recommended higher assessment rate of $0.0175 per kernelweight pound, the Board should

collect approximately $7,402,500 in assessment income, which would be adequate to cover its 2011–12 budgeted expenses of $7,402,450.

The following table compares major budget expenditures recommended by the Board for the 2010–11 and 2011–12 marketing years:

Budget expense categories	2010–11	2011–12
Employee Expenses	$577,500	$693,500
Travel/Board Expenses/Annual Audit	208,000	218,000
Office Expenses	118,850	117,750
Program Expenses Including Research:		
Controlled Purchases	20,000	20,000
Crop Acreage Survey	95,000	95,000
Crop Estimate	105,000	115,000
Production Research Director	88,500	88,500
Production Research	1,042,000	1,036,000
Sustainability Project	0	25,000
Grades and Standards Research	125,000	150,000
Block Grant Research	0	200,000
Domestic Market Development	4,400,000	4,635,000
Reserve for Contingency	32,250	8,700

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. The 470,000 ton (inshell) estimate for merchantable shipments is an average of the two prior years' shipments. The Board met on June 9, 2011, and unanimously approved using a two prior years' average to formulate the 2011–12 estimate. Pursuant to § 984.51(b) of the order, this figure is converted to a merchantable kernelweight basis using a factor of 0.45 (470,000 tons × 2,000 pounds per ton × 0.45), which yields 423,000,000 kernelweight pounds. At $0.0175 per pound, the new assessment rate should generate $7,402,500 in assessment income and allow the Board to cover its expenses.

Section 984.69 of the order authorizes the Board to maintain a financial reserve of not more than two years' budgeted expenses. Excess assessment funds may be retained in the reserve or may be used temporarily to defray expenses of the subsequent marketing year, but if so used, must be made available to the handlers from whom they were collected within five months after the end of the marketing year.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board will continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2011–12 budget and those for subsequent marketing years would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 4,500 growers of California walnuts in the production area and approximately 74 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts of less than $7,000,000.

According to the 2007 Census of Agriculture, approximately 89 percent of California's walnut farms were smaller than 100 acres.

USDA's National Agricultural Statistics Service (NASS) reports that the average yield for the 2010–11 crop was 2.22 tons per acre. NASS also reported the average price received for the 2010–11 crop was $2,110 per ton.

A 100-acre farm with an average yield of 2.22 tons per acre would therefore have been expected to produce about 222 tons of walnuts during 2010–11. At $2,110 per ton, that farm's production would have had an approximate value of $468,420. Assuming that the majority of California's walnut farms are smaller than 100 acres, it could be concluded that the majority of the growers had receipts of less than $468,420 in 2010–11, which is well below the SBA threshold of $750,000. Thus, the majority of California's walnut growers would be considered small growers according to SBA's definition.

According to information supplied by the industry, approximately two-thirds of California's walnut handlers shipped merchantable walnuts valued under $7,000,000 during the 2010–11 marketing year and would therefore be considered small handlers according to the SBA definition.

This rule would increase the assessment rate established for the Board and collected from handlers for the 2011–12 and subsequent marketing years from $0.0174 to $0.0175 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2011–12 expenditures of $7,402,450 and an assessment rate of $0.0175 per kernelweight pound of assessable walnuts. The proposed assessment rate of $0.0175 is $0.0001 higher than the 2010–11 rate. The quantity of assessable walnuts for the 2011–12 marketing year is estimated at

470,000 tons inshell weight, or 423,000,000 pounds kernelweight. Thus, the $0.0175 rate should provide $7,402,500 in assessment income and be adequate to meet this year's expenses. The increased assessment rate is primarily due to increased budget expenditures.

The following table compares major budget expenditures recommended by the Board for the 2010–11 and 2011–12 marketing years:

Budget expense categories	2010–11	2011–12
Employee Expenses	$577,500	$693,500
Travel/Board Expenses/Annual Audit	208,000	218,000
Office Expenses	118,850	117,750
Program Expenses Including Research:		
Controlled Purchases	20,000	20,000
Crop Acreage Survey	95,000	95,000
Crop Estimate	105,000	115,000
Production Research Director	88,500	88,500
Production Research	1,042,000	1,036,000
Sustainability Project	0	25,000
Grades and Standards Research	125,000	150,000
Block Grant Research	0	200,000
Domestic Market Development	4,400,000	4,635,000
Reserve for Contingency	32,250	8,700

The Board reviewed and unanimously recommended 2011–12 expenditures of $7,402,450. Prior to arriving at this budget, the Board considered alternative expenditure levels but ultimately decided that the recommended levels were reasonable to properly administer the order. The assessment rate of $0.0175 per kernelweight pound of assessable walnuts was derived by dividing anticipated expenses of $7,402,450 by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 423,000,000 pounds, which should provide $7,402,500 in assessment income and allow the Board to cover its expenses. Unexpended funds may be retained in a financial reserve, provided that funds in the financial reserve do not exceed approximately two years' budgeted expenses. If not retained in a financial reserve, unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69 of the order.

According to NASS, the season average grower prices for the years 2009 and 2010 were $1,710 and $2,110 per ton, respectively. These prices provide a range within which the 2011–12 season average price could fall. Dividing these average grower prices by 2,000 pounds per ton provides an inshell price per pound range of $0.86 to $1.06. Dividing these inshell prices per pound by the 0.45 conversion factor (inshell to kernelweight) established in the order yields a 2011–12 price range estimate of $1.91 to $2.36 per kernelweight pound of assessable walnuts.

To calculate the percentage of grower revenue represented by the assessment rate, the assessment rate of $0.0175 per kernelweight pound is divided by the low and high estimates of the price range. The estimated assessment revenue for the 2011–12 marketing year as a percentage of total grower revenue will thus likely range between .74 and .92 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California walnut industry, and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the June 9, 2011, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 (Walnuts Grown in California). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrderSmallBusinessGuide*. Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2011–12 marketing year begins on September 1, 2011, and the marketing order requires that the rate of assessment for each marketing year apply to all assessable walnuts handled during the year; (2) the Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (3) handlers are aware of this action, which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after September 1, 2011, an assessment rate of $0.0175 per kernelweight pound is established for California merchantable walnuts.

Dated: August 10, 2011.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2011–20788 Filed 8–15–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0868; Directorate Identifier 2011–CE–027–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain SOCATA Model TBM 700 Airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

A TBM700 operator reported an occurrence where, as a result of handling the standby compass lighting bulb cover in flight, both essential bus bars (ESS BUS 1 and ESS BUS 2) failed, leading to loss of a number of instruments and navigation systems.

The technical investigations carried out by SOCATA have shown that the cause of this occurrence was that the electrical protection of some TBM 700 aeroplanes is insufficient to allow in-flight handling of the standby compass lighting cover when energized.

This condition, if not corrected, may compromise the ability of the pilot to safely operate the aeroplane under certain flight conditions due to the increase of workload.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by September 30, 2011.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact SOCATA—Direction des Services, 65921 Tarbes Cedex 9, France; telephone: +33 (0)5 62 41 73 00; fax: +33 (0)5 62 41 7–54; or in the United States contact SOCATA North America, Inc., North Perry Airport, 7501 South Airport Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141; Internet: *http://www.socatanorthamerica.com*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; e-mail: *albert.mercado@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0868; Directorate Identifier 2011–CE–027–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2011–0130, dated July 8, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

A TBM700 operator reported an occurrence where, as a result of handling the standby compass lighting bulb cover in flight, both essential bus bars (ESS BUS 1 and ESS BUS 2) failed, leading to loss of a number of instruments and navigation systems.

The technical investigations carried out by SOCATA have shown that the cause of this occurrence was that the electrical protection of some TBM 700 aeroplanes is insufficient to allow in-flight handling of the standby compass lighting cover when energized.

This condition, if not corrected, may compromise the ability of the pilot to safely operate the aeroplane under certain flight conditions due to the increase of workload.

To address this unsafe condition, SOCATA have developed a modification which consists of installing a protection fuse on the wire at the standby compass connector, introduced by SOCATA Service Bulletin (SB) 70–192–34.

For the reasons described above, this AD requires installation of a protection of the electrical wire at the standby compass connector.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

DAHER–SOCATA has issued TBM Aircraft Mandatory Service Bulletin SB

70–192, dated April 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. .

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 124 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $350 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $53,940 or $435 per product.

According to the manufacturer, all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

SOCATA: Docket No. FAA–2011–0868; Directorate Identifier 2011–CE–027–AD.

Comments Due Date

(a) We must receive comments by September 30, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to SOCATA Model TBM 700 airplanes, serial numbers 148, 434 through 572, 574, and 576, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 34: Navigation.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

A TBM700 operator reported an occurrence where, as a result of handling the standby compass lighting bulb cover in flight, both essential bus bars (ESS BUS 1 and ESS BUS 2) failed, leading to loss of a number of instruments and navigation systems.

The technical investigations carried out by SOCATA have shown that the cause of this occurrence was that the electrical protection of some TBM 700 aeroplanes is insufficient to allow in-flight handling of the standby compass lighting cover when energized.

This condition, if not corrected, may compromise the ability of the pilot to safely operate the aeroplane under certain flight conditions due to the increase of workload.

To address this unsafe condition, SOCATA have developed a modification which consists of installing a protection fuse on the wire at the standby compass connector, introduced by SOCATA Service Bulletin (SB) 70–192–34.

For the reasons described above, this AD requires installation of a protection of the electrical wire at the standby compass connector.

Actions and Compliance

(f) Unless already done, within 6 months after the effective date of this AD, install a protection fuse on the wire at the standby compass connector following the Accomplishment Instructions in DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–192, dated April 2011.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–

4090; e-mail: *albert.mercado@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave., SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2011–0130, dated July 8, 2011; and DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–192, dated April 2011, for related information. For service information related to this AD, contact SOCATA—Direction des Services, 65921 Tarbes Cedex 9, France; telephone: +33 (0)5 62 41 73 00; fax: +33 (0)5 62 41 7–54; or in the United States contact SOCATA North America, Inc., North Perry Airport, 7501 South Airport Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141; Internet: *http://www.socotonorthomerico.com*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on August 9, 2011.

Earl Lawrence,

Monoger, Smoll Airplone Directorote, Aircraft Certificotion Service.

[FR Doc. 2011–20820 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SATS Nos. TX–061–FOR; TX–062–FOR; TX–063–FOR; Docket ID: OSM–2011–0007]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of three proposed amendments to the Texas regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act).

Texas at its own initiative submitted three separate amendments to its program: SATS Nos. TX–061–FOR, TX–062–FOR, and TX–063–FOR. Texas proposes revisions in TX–061–FOR by adding language that no longer requires an operation with only reclamation activities ongoing to renew their mining permit, to clarify the requirement to maintain public liability insurance for sites where the permit is not renewed because the only activities ongoing are reclamation, and to clarify midterm review times for sites where the permit is not renewed because the only ongoing activities are reclamation. Texas proposes revisions in TX–062–FOR by adding a new definition for "Previously mined land," adding new language on the effects of previous mining violations from operations on previously mined lands in relation to permit application denials, and adding new language explaining performance standards for revegetation liability timeframes for coal mining and reclamation operations. Texas proposes revisions in TX–063–FOR by adding a new definition for "Director;" deleting old language, and adding new language clarifying the review periods for new permits, renewals, and significant revisions. Texas intends to revise its program to improve operational efficiency.

This document provides the times and locations that the Texas program and proposed amendments to that program are available for public inspection, the comment period during which you may submit written comments on these amendments, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on these amendments until 4 p.m., c.d.t., September 15, 2011. If requested, we will hold a public hearing on the amendments on September 12, 2011. We will accept requests to speak at a hearing until 4 p.m., c.d.t. on August 31, 2011.

ADDRESSES: You may submit comments, identified by SATS Nos. TX–061–FOR, TX–062–FOR, or TX–063–FOR by any of the following methods:

- *E-mail: aclayborne@osmre.gov.* Include SATS Nos. TX–061–FOR, TX–062–FOR, or TX–063–FOR in the subject line of the message.
- *Mail/Hand Delivery:* Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629.
- *Fax:* (918) 581–6419.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM–2011–0007. If you would like to submit comments, go to *http://www.regulations.gov* and follow the instructions.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process; see the Public Comment Procedures heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Texas regulations, these amendments, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendments by contacting OSM's Tulsa Field Office; or you can view the full text of the program amendments available for you to read at *http://www.regulations.gov.*

Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629, Telephone: (918) 581–6430, *E-mail: aclayborne@osmre.gov.*

In addition, you may review a copy of the amendments during regular business hours at the following location: Railroad Commission of Texas, 1701 North Congress Ave., Austin, Texas 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581–6430. E-mail: *aclayborne@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program in the February 27, 1980, **Federal Register** (45 FR 12998). You can also find later actions concerning the Texas program and program amendments at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendments

1. By letter dated May 18, 2011, (Administrative Record No. TX–667) Texas sent us an amendment to its Program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. Below is a summary of the changes proposed by Texas. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *http://www.regulations.gov.*

A. 16 Texas Administrative Code (TAC) § 12.100—Responsibilities

Texas proposes to add new language allowing a permittee to not renew their mining permit if the activities on the site are solely for reclamation purposes.

B. 16 TAC § 12.225—Commission Review of Outstanding Permits

Texas proposes to add new language clarifying the requirement for midterm permit reviews on permits that are not renewed because the only activities are solely for reclamation.

C. 16 TAC § 12.311—Terms and Conditions for Liability Insurance

Texas proposes to add new language clarifying the need to maintain liability insurance on a site if the permit is not renewed because the only activities are solely for reclamation.

2. By letter dated May 26, 2011, (Administrative Record No. TX–668) Texas sent us an amendment to its Program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. Below is a summary of the changes proposed by Texas. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *http://www.regulations.gov.*

A. Texas Natural Resource Code (NRC) § 134.004—Definitions

Texas proposes to add a new definition for "Previously mined land."

B. Texas NRC § 134.069—Effect of Past or Present Violation

Texas proposes to add a new paragraph in this section, explaining that the Commission may not deny a permit application based on previous violations by the applicant that occurred in connection with a surface coal mining operation conducted on previously mined land if the violation resulted from an event or condition that was not contemplated in the permit for the surface coal mining operation.

C. Texas NRC § 134.092—PERFORMANCE STANDARDS

Texas proposes to add new language in this section establishing timeframes regarding the assumption of responsibility for successful revegetation as required by Subdivision (19). These are established five years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with that subdivision, if the land is not previously mined land; or two years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with that subdivision, if the land is previously mined land.

D. Texas NRC § 134.104—Responsibility for Revegetation: Area of Low Precipitation.

Texas proposes to add new language in this section clarifying that where the annual average precipitation is 26 inches or less, an operator's assumption of responsibility and liability extends for 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work, if the land is not previously mined land; or five years after the last year of augmented seeding, fertilizing, irrigation, or other work, if the land is previously mined land.

E. Texas NRC § 134.105—Responsibility for Revegetation: Long-Term Intensive Agricultural Postmining Use

Texas proposes to delete language in this section pertaining to the applicable period of responsibility for revegetation beginning on the date of initial planting.

3. By letter dated June 3, 2011, (Administrative Record No. TX–669) Texas sent us an amendment to its Program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. Below is a summary of the changes proposed by Texas.

A. Texas Natural Resource Code (NRC) § 134.004—Definitions

Texas proposes to add a new definition for "Director."

B. Texas NRC § 134.080—Approval or Disapproval of Permit Revision

Texas proposes to delete the word "DISAPPROVAL" from this section heading and delete the paragraph that gives the timeframes for the Commission to approve or disapprove a permit revision application.

C. Texas NRC § 134.085—Review Periods for New Permits, Renewals, and Revisions

Texas proposes to add this section clarifying review timeframes upon receipt of an application for a new permit, permit renewal, or significant permit revision.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether Texas' proposed amendments satisfy the applicable program approval criteria of 30 CFR 732.15. If we approve the amendments, they will become part of Texas' State Program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**)

will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on August 31, 2011. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendments, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public; if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 23, 2011.

Len Meier,

Acting Regional Director, Mid-Continent Region.

[FR Doc. 2011–20548 Filed 8–15–11; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0101]

RIN 1625–AA87

Security Zones; Cruise Ships, San Pedro Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend 33 CFR 165.1154, Security Zones; Cruise Ships, San Pedro Bay, California, by providing a common description of all security zones created by this section to encompass only navigable waters within a 100-yard radius around any cruise ship that is located within the San Pedro Bay port area landward of the sea buoys bounding the Port of Los Angeles or Port of Long Beach or at designated anchorages within 3 nautical miles of the Federal breakwater. This notice of proposed rulemaking is necessary to provide for the safety of the cruise ship, vessels, and users of the waterway. Entry into these security zones would be prohibited unless specifically authorized by the Captain of the Port (COTP) Los Angeles—Long Beach, or his designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before September 15, 2011.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0101 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Ensign Stephen M. Sanders, Prevention, Coast Guard Sector Los Angeles—Long Beach, Coast Guard; telephone 310–521–3862, e-mail *Stephen.M.Sanders@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0101), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a

comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG–2011–0101" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2011–0101" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES.** Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Basis and Purpose

Based on experience with actual security zone enforcement operations, the COTP Los Angeles—Long Beach has concluded that a security zone encompassing all navigable waters, extending from the surface to the sea floor, within a 100-yard radius around any cruise ship in the following locations is necessary to provide for the safety of the cruise ship, as well as other vessels and users of these navigable waters: Within the San Pedro Bay port area inside the sea buoys bounding the Port of Los Angeles or Port of Long Beach, or at a designated anchorage within 3 nautical miles seaward of the Federal breakwater.

Discussion of Proposed Rule

The Coast Guard proposes to establish a security zone regulation. The security zones proposed by this NPRM would encompass only navigable waters within a 100-yard radius around any cruise ship that is located within the San Pedro Bay port area landward of the sea buoys bounding the Port of Los Angeles or Port of Long Beach or at designated anchorages within 3 nautical miles seaward of the Federal breakwater. This notice of proposed rulemaking is necessary to provide for the safety of the cruise ship, vessels, and users of the waterway. Entry into these security zones would be prohibited unless specifically authorized by the Captain of the Port (COTP) Los Angeles—Long Beach, or his designated representative.

Paragraph (b)(1) and (b)(2) of the existing 33 CFR 165.1154 includes reference to the shore area and cruise ships anchored at designated anchorages either inside or outside at designated anchorages within 3 nautical miles of the Federal breakwater. The COTP has determined that security zones for moored cruise ships in Los Angeles—Long Beach Harbors need not include any shore area, as passenger terminals used for cruise ship operations are regulated under regulations in 33 CFR part 105 issued under authority of the Maritime Transportation Security Act of 2002 (Pub. L. 107–295). In addition to clarifying the area covered by security zones created by § 165.1154 (b), this proposed rule would simplify the regulation by not distinguishing between anchored cruise ships, moored cruise ships, and cruise ships underway. Also, we propose to revise paragraph (c) to make it clear that persons and vessels may not enter these security zones without first obtaining permission of the Captain of the Port.

Regulatory Analyses

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be so minimal that full Regulatory Evaluation is unnecessary. Most of the entities likely to be affected are pleasure craft engaged in recreational activities and sightseeing. This rule will impose no more burden than the current regulation. In addition, due to National Security interests, the implementation of this security zone regulation is necessary for the protection of the United States and its people. The size of the zones is the minimum necessary to provide adequate protection for cruise ships.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in Los Angeles—Long Beach ports within a 100-yard radius of cruise ships covered by this rule.

This security zone regulation will not have a significant economic impact on a substantial number of small entities because vessel traffic can pass safely around the zones.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104- 121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. In § 165.1154, revise paragraphs (b) and (c) to read as follows:

§ 165.1154 Security Zones; Moored Cruise Ships, San Pedro Bay, California.

* * * * *

(b) *Location.* The following areas are security zones: All navigable waters, extending from the surface to the sea floor, within a 100-yard radius around any cruise ship that is located within the San Pedro Bay area landward of the sea buoys bounding the port of Los Angeles or Port of Long Beach or at designated anchorages within 3 nautical miles seaward of the Federal Breakwaters.

(c) *Regulations.* Under regulations in 33 CFR part 165, subpart D, a person or vessel may not entry into or remain in the security zones created by this section unless authorized by the Coast Guard Captain of the Port Los Angeles—

Long Beach (COTP) or a COTP designated representative.

(1) Persons desiring to transit these security zones may contact the COTP at telephone number (310) 521–3801 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(2) When a cruise ship approaches within 100 yards of a vessel that is moored, or anchored, the stationary vessel must stay moored or anchored while it remains within the cruise ship's security zone unless it is either ordered by, or given permission from, the COTP Los Angeles-Long Beach to do otherwise.

* * * * *

Dated: March 8, 2011.

R.R. Laferriere,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.

[FR Doc. 2011–20764 Filed 8–15–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG–2011–0328]

RIN 1625–AB70

2012 Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of August 4, 2011, concerning rates for pilotage on the Great Lakes. This correction provides four rows that were missing from Table 36 in the earlier document and corrects a misspelled column heading in Table 37 of that document.

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Mr. Todd Haviland, Management & Program Analyst, Office of Great Lakes Pilotage, Commandant (CG–5522), Coast Guard; telephone 202–372–2037, e-mail *Todd.A.Haviland@uscg.mil,* or fax 202–372–1909.

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. 2011–19746, on page 47109 in the issue of August 4, 2011, the second column heading in Table 37 should read "Table Multiplier." Also on that page, correct Table 36 to read as follows:

TABLE 36—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT TWO

	2011 Rate		Rate multiplier		Adjusted rate for 2012
Area 4—Lake Erie:					
6 hour period	$791	×	0.964	=	$762
Docking or undocking	609	×	0.964	=	587
Any point on Niagara River below Black Rock Lock	1,554	×	0.964	=	1,497
Area 5—Southeast Shoal to Port Huron, MI between any point on or in:					
Toledo or any point on Lake Erie W. of Southeast Shoal	1,412	×	0.972	=	1,372
Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal	2,389	×	0.972	=	2,231
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	3,102	×	0.972	=	3,014
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	2,389	×	0.972	=	2,321
Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,162	×	0.972	=	4,044
Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,821	×	0.972	=	4,684
Port Huron Change Point & Detroit River	3,126	×	0.972	=	3,037
Port Huron Change Point & Detroit Pilot Boat	2,432	×	0.972	=	2,363
Port Huron Change Point & St. Clair River	1,729	×	0.972	=	1,680
St. Clair River	1,412	×	0.972	=	1,372
St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,162	×	0.972	=	4,044
St. Clair River & Detroit River/Detroit Pilot Boat	3,126	×	0.972	=	3,037
Detroit, Windsor, or Detroit River	1,412	×	0.972	=	1,372
Detroit, Windsor, or Detroit River & Southeast Shoal	2,389	×	0.972	=	2,321
Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	3,102	×	0.972	=	3,014
Detroit, Windsor, or Detroit River & St. Clair River	3,126	×	0.972	=	3,037
Detroit Pilot Boat & Southeast Shoal	1,729	×	0.972	=	1,680
Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal	2,389	×	0.972	=	2,321
Detroit Pilot Boat & St. Clair River	3,126	×	0.972	=	3,037

Dated: August 10, 2011.

Kathryn Sinniger,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2011–20763 Filed 8–15–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 42

[FAR Case 2009–042; Docket 2011–0087, Sequence 1]

RIN 9000–AM09

Federal Acquisition Regulation; Documenting Contractor Performance; Correction

AGENCY: Department of Defense (DoD), General Services Administration (GSA). and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the comment date published in the **Federal Register** of August 9, 2011, regarding the proposed rule for Documenting Contractor Performance.

DATES: The comment period for the proposed rule published June, 28, 2011, at 76 FR 37704, is extended. Comments will be received until September 29, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at (202) 501–1448. Please cite FAR Case 2009–042.

Correction

In the proposed rule FR Doc. 2011–20089, beginning on page 48776, in the 2nd column, in the issue of August 9, 2011, make the following correction, in the **DATES** section:

Remove "September 8, 2011" and add "September 29, 2011" in its place.

Hada Flowers,

Division Director, Regulatory Secretariat, Office of Governmentwide Policy, Office of Acquisition Policy.

[FR Doc. 2011–20778 Filed 8–15–11; 8:45 am]

BILLING CODE 6820–EP–P

Notices

Federal Register
Vol. 76, No. 158
Tuesday, August 16, 2011

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

Briefing on Partner Vetting System Pilot Program

AGENCY: U.S. Department of State and U.S. Agency for International Development.

ACTION: Notice of briefing.

SUMMARY: Notice is hereby given of a briefing on the Partner Vetting System (PVS) pilot program. The objective of the briefing is to provide information about the PVS pilot program. Members of the public may attend in person or join via teleconference.

Officials from the U.S. Department of State (State) and U.S. Agency for International Development (USAID) will brief on the PVS pilot program. The briefing will be followed by an open forum for discussion where public participation is encouraged. The agenda is subject to change.

DATES: The briefing will take place on Thursday September 8, 2011, from 2:30 p.m.–3:30 p.m. E.D.T.

Registration: Although the briefing is free and open to the public, registration is required for attendance. Please e-mail *USAID_RSVP4@usaid.gov* to register and receive location or call-in information. Please specify whether you wish to attend in person or call in. As space is limited, members of the public interested in attending in person will be accommodated in order of registrations received.

Dated: August 9, 2011.

Lisa M. Farrell,

Management Analyst, U.S. Department of State, Bureau of Administration, Office of Logistics Management, Office of Risk Analysis and Management.

Dated: August 8, 2011.

David Barth,

Deputy Chief of Staff, U.S. Agency for International Development, Bureau of Legislative and Public Affairs.

[FR Doc. 2011–20771 Filed 8–15–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Forest Products Removal Permits and Contracts

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with no revision of a currently approved information collection, Forest Products Removal Permits and Contracts.

DATES: Comments must be received in writing on or before October 17, 2011 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Sharon Nygaard-Scott, Forest Management Staff, Forest Service, USDA, Mail Stop 1103, 1400 Independence Avenue, SW., Washington, DC 20250.

Comments also may be submitted via facsimile to 202–205–1045 or by e-mail to *forest_products_forms@fs.fed.us.* In addition, comments may be submitted via the world wide web/Internet at: *http://www.regulations.gov.*

The public may inspect comments received at the Forest Service, Forest Management Staff Office, Third Floor SW., 201 14th Street, SW., Washington, DC 20250 during normal business hours. Visitors are encouraged to call ahead to 202–205–1766 to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Sharon Nygaard-Scott, Forest Management Staff, at 202–205–1766, or Richard Fitzgerald, Forest Management Staff, at 202–205–1753. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Forest Products Removal Permits and Contracts.

OMB Number: 0596–0085.

Expiration Date of Current Approval: January 31, 2012.

Type of Request: Extension with no revision of a currently approved collection.

Abstract: Under 16 U.S.C. 551, individuals planning to remove forest products from the National Forests must obtain a permit. To obtain a permit, applicants must meet the criteria at 36 CFR 223.1, 223.2, and 223.5–223.13, which authorizes free use or sale of timber or forest products. Upon receiving a permit, the permittee must comply with the terms of the permit (36 CFR 261.6), which designates forest products that can be harvested and under what conditions, such as limiting harvest to a designated area or permitting harvest of only specifically designated material. The collected information will help the Forest Service and the Bureau of Land Management (for form FS–2400–1) oversee the approval and use of forest products by the public.

When applying for forest product removal permits, applicants (depending on the products) must complete one of the following:

- FS–2400–1, Forest Products Removal Permit and Cash Receipt, is used to sell timber or forest products such as fuelwood, Christmas trees, or pine cones (36 CFR 223.1, 223.2). The Bureau of Land Management (BLM) and the Forest Service share this form, which the Bureau of Land Management identifies as BLM–5450–24 (43 U.S.C. 1201, 43 CFR 5420).
- FS–2400–4, Forest Products Contract and Cash Receipt, is used to sell timber products such as sawtimber or forest products such as fuelwood.
- FS–2400–8, Forest Products Free Use Permit, allows use of timber or forest products at no charge to the permittee (36 CFR 223.5–223.13).

Each form listed above implements different regulations and has different provisions for compliance, but collects

similar information from the applicant for related purposes.

The Forest Service and the Bureau of Land Management will use the information collected on form FS–2400–1 to ensure identification of permittees in the field by agency personnel. The Forest Service will use the information collected on forms FS–2400–4 and FS–2400–8 to:

- Ensure that permittees obtaining free use of timber or forest products qualify for the free-use program and do not receive product value in excess of that allowed by regulations (36 CFR 223.8).
- Ensure that applicants purchasing timber harvest or forest products permits non-competitively do not exceed the authorized limit in a fiscal year (16 U.S.C. 472(a)).
- Ensure identification of permittees in the field by Forest Service personnel.

Applicants may apply for more than one forest products permit or contract per year. For example, an applicant may obtain a free use permit for a timber product such as pine cones (FS–2400–8) and still purchase fuelwood (FS–2400–4).

Individuals and small business representatives usually request and apply for permits and contracts in person at the office issuing the permit. Applicants provide the following information:

- Name.
- Address.
- Personal identification number such as tax identification number, social security number, driver's license number, or other unique number identifying the applicant.

Agency personnel enter the information into a computerized database to use for subsequent requests by individuals and businesses for a forest product permit or contract. The information is printed on paper, which the applicant signs and dates. Agency personnel discuss the terms and conditions of the permit or contract with the applicant.

The data gathered is not available from other sources. The collected data is used to ensure:

- Applicants for free use permits meet the criteria for free use of timber or forest products authorized by regulations at 36 CFR 223.5–113.13,
- Applicants seeking to purchase and remove timber of forest products from Agency lands meet the criteria under which sale of timber or forest products is authorized by regulations at 36 CFR 223.80, and
- Permittees comply with regulations and terms of the permit at 36 CFR 261.6.

The collection of this information is necessary to ensure that applicants meet the requirements of the forest products program; those obtaining free-use permits for forest products qualify for the program; applicants purchasing non-competitive permits to harvest forest products do not exceed authorized limits; and that Federal Agency employees can identify permittees when in the field.

Estimate of Annual Burden: 5 minutes.

Type of Respondents: Individuals and small businesses.

Estimated Annual Number of Respondents: 226,500.

Estimated Annual Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 38,000.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: August 8, 2011.

James M. Pena,

Associate Deputy Chief, NFS.

[FR Doc. 2011–20717 Filed 8–15–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBS), and Rural Utilities Service (RUS) intention to request an extension for a currently approved information collection in support of compliance with Civil Rights laws.

DATES: Comments on this notice must be received by October 17, 2011 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Willie Williams, Equal Opportunity Specialist, Rural Development, Civil Rights Staff, U.S. Department of Agriculture, STOP 0703, 1400 Independence Ave., SW., Washington, DC 20250–0703, Telephone (202) 692–0099 (voice) or 692–0107 (TDD).

SUPPLEMENTARY INFORMATION:

Title: 7 CFR Part 1901–E, Civil Rights Compliance Requirements.

OMB Number: 0575–0018.

Expiration Date of Approval: November 30, 2011.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The information collection under OMB Number 0575–0018 enables the RHS, RBS, and RUS, to effectively monitor a recipient's compliance with the civil rights laws, and to determine whether or not service and benefits are being provided to beneficiaries on an equal opportunity basis.

The RBS, RHS, and RUS are required to provide Federal financial assistance through its housing and community and business programs on an equal opportunity basis. The laws implemented in 7 CFR part 1901, subpart E, require the recipients of RBS, RHS, and RUS Federal financial assistance to collect various types of information, including information on participants in certain of these agencies' programs, by race, color, and national origin.

The information collected and maintained by the recipients of certain programs from RBS, RHS, and RUS is used internally by these agencies for monitoring compliance with the civil rights laws and regulations. This information is made available to USDA officials, officials of other Federal agencies, and to Congress for reporting purposes. Without the required information, RBS, RHS, RUS and its recipients will lack the necessary documentation to demonstrate that their programs are being administered in a nondiscriminatory manner, and in full compliance with the civil rights laws. In addition, the RBS, RHS, RUS and their recipients would be vulnerable in lawsuits alleging discrimination in the

affected programs of these agencies, and would be without appropriate data and documentation to defend themselves by demonstrating that services and benefits are being provided to beneficiaries on an equal opportunity basis.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 7.5 hours per response.

Respondents: Recipients of RBS, RHS, and RUS Federal financial assistance, loan, and loan guarantee programs.

Estimated Number of Respondents: 27,000.

Estimated Number of Responses per Respondent: 2.72.

Estimated Number of Responses: 73,559.

Estimated Total Annual Burden on Respondents: 550,276.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, at (202) 692–0040.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Development, including whether the information will have practical utility; (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, Rural Development, U.S. Department of Agriculture, STOP 0742, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 22, 2011.

Tammye Trevino,

Administrator, Rural Housing Service.

[FR Doc. 2011–20785 Filed 8–15–11; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Procedures for Acceptance or Rejection of a Rated Order.

OMB Control Number: 0694–0092.

Form Number(s): N/A.

Type of Request: Regular submission (extension of a currently approved information collection).

Burden Hours: 21,380.

Number of Respondents: 734,650.

Average Hours per Response: 1 minute for accepted orders; 10 minutes for rejected orders; and 15 minutes for delayed orders.

Needs and Uses: This collection involves the exchange of rated order information between customers and suppliers. Exchange of this information and recordkeeping are necessary for administration and enforcement of delegated authority under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*) and the Selective Service Act of 1948 (50 U.S.C. App. 468). Any person (supplier) who receives a priority rated order under Defense Priorities and Allocations System regulation (15 CFR 700) must notify the customer of acceptance or rejection of that order within a specified period of time. Also, if shipment against a priority rated order will be delayed, the supplier must immediately notify the customer.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, e-mail to *Jasmeet_K._Seehra@omb.eop.gov,* or fax to (202) 395–5167.

Dated: August 10, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–20718 Filed 8–15–11; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 53–2011]

Foreign-Trade Zone 74, Baltimore, MD; Application for Reorganization/ Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Baltimore Development Corporation on behalf of the City of Baltimore, grantee of FTZ 74, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170–1173, 01/12/09 (correction 74 FR 3987, 01/22/09); 75 FR 71069–71070, 11/22/10)). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 10, 2011.

FTZ 74 was approved by the Board on January 21, 1982 (Board Order 183, 47 FR 5737, 2/8/82), and expanded on January 31, 1989 (Board Order 427, 54 FR 5992, 2/7/89), on April 5, 2001 (Board Order 1157, 66 FR 19423, 4/16/01), and on December 9, 2005 (Board Order 1424, 70 FR 76023, 12/22/05).

The current zone project includes the following sites: *Site 1* (20 acres)—Holabird Industrial Park, Baltimore; *Site 2* (127 acres)—within the Point Breeze Business Center, 2500 Broening Highway, Baltimore; *Site 3* (167.6 acres)—within the Seagirt Marine Terminal, Baltimore; *Site 4* (287.5 acres)—Dundalk Marine Terminal, located on Broening Highway, Baltimore; *Site 5* (97 acres)—Chesapeake Terminal and American Port Services Center, Baltimore; *Site 6* (274 acres)—Atlantic and Fairfield

Terminals, Baltimore; *Site 7* (196 acres)—North & South Locust Point Terminals, Baltimore; *Site 8* (157 acres)—Rukert and Clinton Street Marine Terminals, Baltimore; *Site 9* (15 acres)—Belt's Business Center, 600 Folcroft Street, Baltimore; *Site 10* (81 acres)—Pulaski Business Park, 6200 Pulaski Highway, Baltimore; *Site 11* (12 acres)—Obrecht Business Center, 6200 Frankford Avenue, Baltimore; *Site 12* (32 acres total)—three parcels located in Baltimore at 1200 South Newkirk Street (14 acres), at 4200 Boston Street (2 acres), and at 16 acres adjacent to Newkirk and Boston Streets; *Site 13* (100 acres)—Marley Neck Industrial Park, 6600 Cabot Drive, Baltimore; *Site 14* (91 acres)—Enterprise Business Park, 1501 Perryman Road, Perryman; *Site 15* (8 acres, expires 2/1/12)—5107 North Point Boulevard, Sparrows Point; *Site 16* (3.71 acres, expires 2/1/12)—5003 Holabird Avenue, Baltimore; *Site 17* (5.06 acres, expires 2/1/12)—7700 Rolling Mill Road, Baltimore; *Site 18* (10.19 acres, expires 2/1/12)—8200/8203 Fischer Road, Baltimore; *Site 19* (12.39 acres, expires 2/1/12)—4501 Curtis Avenue, Baltimore; *Site 20* (4 acres, expires 4/2/12)—1200 E. Patapsco Avenue, Baltimore; *Site 21* (15.5 acres, expires 4/2/12)—3501 E. Biddle Street, Baltimore; *Site 22* (4.94 acres, expires 9/30/12)—3901–4001 Dillon Street, Baltimore; *Site 23* (7.4 acres, expires 12/31/12)—3400 E. Biddle Street, Baltimore; and, *Site 24* (2.9 acres, expires 12/31/12)—8004 Stansbury Road, Dundalk.

The grantee's proposed service area under the ASF would be the City of Baltimore and the Counties of Anne Arundel, Baltimore, Cecil and Harford, Maryland. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Baltimore Customs and Border Protection port of entry. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 74's authorized subzones.

The applicant is requesting authority to reorganize and expand its existing zone project under the ASF as follows: remove Sites 1, 3, 5, 10, 11 and 14 due to changed circumstances; expand the boundaries of Sites 4, 16 and 17; reduce the boundaries of Sites 2, 6, 7, 8, 12 and 13; and, redesignate a 20-acre portion of Site 8 as Site 25. Sites 2, 4 and 16 would become "magnet" sites and Sites 6–9, 12, 13, 15 and 17–25 would become "usage-driven" sites. The companies located at the "usage-driven" sites are: Trade Zone Operations (Site 6); C. Steinweg (Baltimore) (Sites 7 & 15); Rukert Terminals (Site 8); Belt's Corporation (Site 9); Henry Bath (Site 12); Under Armour (Site 13); Pacorini Metals (Sites 17 & 25); Ruxton Services (Sites 18 & 19); S.H. Bell Company Baltimore (Sites 20 & 21); Overflo Warehouse (Site 22); White Marsh Transport (Site 23); and Edgemere Terminals (Site 24).

The applicant is also requesting approval of a new "magnet" site and four new "usage-driven" sites: *Proposed Site 26* (146 acres)—Sparrows Point Shipyard, 600 Shipyard Road, Baltimore (Baltimore County); *Proposed Site 27* (2.3 acres)—J. D. Neuhaus, LP, 9 Loveton Circle, Sparks (Baltimore County); *Proposed Site 28* (2.5 acres)—McCormick & Company, Inc., 11102 McCormick Road, Hunt Valley (Baltimore County); *Proposed Site 29* (17.6 acres)—McCormick & Company, Inc., 10901 Gilroy Road, Hunt Valley (Baltimore County); and, *Proposed Site 30* (8.48 acres)—McCormick & Company, Inc., 4607 Appliance Drive, Belcamp (Harford County).

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 31, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 31, 2011.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz*. For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: August 10, 2011.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–20836 Filed 8–15–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–893]

Certain Frozen Warmwater Shrimp From the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") is extending the time limit for the preliminary results of the administrative review of certain frozen warmwater shrimp from the People's Republic of China ("PRC"). The review covers the period February 1, 2010, through January 31, 2011.

DATES: *Effective Date:* August 16, 2011.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Kabir Archuletta, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–9068 or (202) 482–2593, respectively.

Background

On March 31, 2011, the Department published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from the PRC. *See Initiation of Antidumping Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review*, 76 FR 17825 (March 31, 2011). The preliminary results of the review are currently due no later than October 31, 2011.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. Consistent with section 751(a)(3)(A) of the Act, the Department may extend the 245-day period to 365 days if it is not practicable to complete the review within a 245-day period.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of the administrative review on certain frozen warmwater shrimp from the PRC

within the original time limit because the Department requires additional time to analyze questionnaire responses, issue supplemental questionnaires, and to evaluate surrogate value and surrogate county submissions for purposes of these preliminary results.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for completion of the preliminary results of the administrative review by 120 days. The preliminary results will now be due no later than February 28, 2012. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is published pursuant to section 777(i)(1) of the Act and 19 CFR 351.213(h)(2).

Dated: August 10, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–20834 Filed 8–15–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 110524296–1455–02]

Models for a Governance Structure for the National Strategy for Trusted Identities in Cyberspace—Extension of Due Date for Comments

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce.

ACTION: Notice.

SUMMARY: NIST is extending the deadline for submitting comments regarding the governance structure for the National Strategy for Trusted Identities in Cyberspace (NSTIC) to 3 p.m. Eastern Time, August 30, 2011. NIST will accept only electronic submissions during the extended time period.

DATES: Comments must be received no later than 3 p.m. Eastern Time August 30, 2011.

ADDRESSES: Electronic comments may be sent to *NSTICnoi@nist.gov*.

FOR FURTHER INFORMATION CONTACT: Ross J. Micheals via e-mail at *ross.micheals@nist.gov* or telephone (301) 975–3234.

SUPPLEMENTARY INFORMATION: On June 14, 2011, the National Institute of Standards and Technology (NIST) announced that it was soliciting comments on potential models for the formation and structure of the Identity Ecosystem governance body. The due date for submission of comments was July 22, 2011. Due to requests from the public and in order to provide all interested parties the opportunity to submit comments, NIST is extending the solicitation period until 3 p.m. Eastern Time, August 30, 2011. Proposals received between July 22, 2011 and the publication date of this notice of extension shall be deemed timely and will be given full consideration. Persons who submitted comments between July 22, 2011 and the date of publication of this notice need not resubmit their comments. During the extended solicitation period, NIST will accept only electronic submissions.

Some members of the public submitted several versions of their comments. In those cases, NIST will consider and post only the last version received.

Dated: August 9, 2011.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2011–20816 Filed 8–15–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA639

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeastern Data, Assessment, and Review (SEDAR); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of SEDAR Steering Committee meeting.

SUMMARY: The SEDAR Steering Committee will meet to discuss the SEDAR assessment schedule, budget, and the SEDAR process. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR Steering Committee will meet on Thursday, October 13, 2011, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 4831 Tanger Outlet Blvd., North Charleston, SC 29418; *telephone:* (843) 744–4422.

FOR FURTHER INFORMATION CONTACT: John Carmichael, SEDAR Program Manager, SEDAR/SAFMC, 4055 Faber Place, Suite 201, North Charleston, SC 29405; *telephone:* (843) 571–4366 or toll free (866) SAFMC–10; *fax:* (843) 769–4520.

SUPPLEMENTARY INFORMATION: The South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils; in conjunction with NOAA Fisheries, the Atlantic States Marine Fisheries Commission, and the Gulf States Marine Fisheries Commission; implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks. The SEDAR Steering Committee meets regularly to provide oversight of the SEDAR process and establish assessment priorities.

During this meeting the Steering Committee will receive reports on recent SEDAR activities, consider assessment scheduling for 2012–16, and discuss the SEDAR budget and procedures.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 7 business days prior to the meeting.

Dated: August 11, 2011.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–20759 Filed 8–15–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

National Security Education Board Members Meeting

AGENCY: Under Secretary of Defense Personnel and Readiness, Department of Defense.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming meeting of the National Security Education Board. The purpose

of the meeting is to review and make recommendations to the Secretary of Defense concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

DATES: September 8, 2011, from 1 p.m.–5:30 p.m.

ADDRESSES: Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Ms. Alison Patz, Program Analyst, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn, Virginia 22209–2248; (703) 696–1991. Electronic mail address: *Alison.patz@wso.whs.mil.*

SUPPLEMENTARY INFORMATION: The National Security Education Board Members meeting is open to the public. The public is afforded the opportunity to submit written statements associated with National Security Education Program (NSEP).

Dated: August 11, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–20819 Filed 8–15–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Assistant Secretary of Defense (Health Affairs), Department of Defense.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces the following Federal Advisory Committee Meeting of the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel).

DATES: September 22, 2011, from 9 a.m.–1 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Blanche, Alternate Designated Federal Officer, Uniform Formulary Beneficiary Advisory Panel, 5111 Leesburg Pike, Suite 810a, Falls Church, Virginia; Telephone: (703) 681–2890, Fax: (703) 681–2940, E-mail address: *Baprequests@tma.osd.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: The Panel will review and comment on recommendations made to the Director of TRICARE Management Activity, by the Pharmacy and Therapeutics Committee, regarding the Uniform Formulary.

Meeting Agenda

1. Sign-In.
2. Welcome and Opening Remarks.
3. Public Citizen Comments.
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item).
   a. Multiple Sclerosis.
   b. Non-Steroidal Anti-Inflammatory Drugs.
   c. Contraceptives.
   d. Designated Newly Approved Drugs in Already-Reviewed Classes.
   e. Pertinent Utilization Management Issues.
5. Panel Discussions and Vote.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing-in. All persons must sign-in legibly.

Administrative Work Meeting: Prior to the public meeting, the Panel will conduct an Administrative Work Meeting from 7:30 a.m. to 9 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue, NW., Washington, DC 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer (DFO). The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database at *https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than 5 business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Public Comments: In addition to written statements, the Panel will set aside 1 hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register to address the Panel. The Panel's DFO will have a "Sign-Up Roster" available at the Panel meeting for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than 5 minutes to present their comments, and at the end of the 1 hour time period, no further public comments will be accepted. Anyone who signs up to address the Panel, but is unable to do so due to the time limitation, may submit their comments in writing; however, they must understand that their written comments may not be reviewed prior to the Panel's deliberation.

To ensure timeliness of comments for the official record, the Panel encourages that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: August 10, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–20772 Filed 8–15–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notification of an Open Meeting of the National Defense University Board of Visitors (BOV)

AGENCY: National Defense University, Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: The National Defense University (NDU), Designated Federal Officer, has scheduled a meeting of the Board of Visitors. The National Defense University Board of Visitors is a Federal Advisory Board. The Board meets twice each year in proceedings that are open to the public.

DATES: The meeting will be held on October 27, 2011 from 11:30 a.m. to 5 p.m. and continues on October 28, 2011 from 8 a.m. to 12:30 p.m.

ADDRESSES: The Board of Visitors meeting will be held at Marshall Hall, Building 62, Room 155, the National

Defense University, 300 5th Avenue, SW., Fort McNair, Washington, DC 20319–5066.

FOR FURTHER INFORMATION CONTACT: The point of contact for this notice is Ms. Dolores Hodge, phone: (202) 685–0082, Fax (202) 685–3920 or e-mail: *HodgeD@ndu.edu*.

SUPPLEMENTARY INFORMATION: The future agenda will include discussion on Defense transformation, faculty development, facilities, information technology, curriculum development, as well as other operational issues and areas of interest affecting the day-to-day operations of the National Defense University and its components. The meeting is open to the public; limited space made available for observers will be allocated on a first come, first served basis. Written statements to the committee may be submitted to the committee at any time or in response to a stated planned meeting agenda by FAX or e-mail to the point of contact person listed in **FOR FURTHER INFORMATION CONTACT.** (Subject Line: Comment/Statement to the NDU BOV).

Dated: August 11, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–20802 Filed 8–15–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2011–0020]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is proposing to amend a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on September 15, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905, or by phone at (703) 428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT.**

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 10, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0195–2b USACIDC

SYSTEM NAME:

Criminal Investigation and Crime Laboratory Files (August 1, 2011, 76 FR 45783).

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Reports of Investigation: At Headquarters, U.S. Army Criminal Investigation Command (USACIDC), criminal investigative case files are retained for 40 years after final action, except that at USACIDC subordinate elements, such files are retained from 1 to 5 years depending on the level of such unit and the data involved.

LABORATORY REPORTS:

Laboratory reports at the USACIDC laboratory are destroyed after 40 years.

CRIMINAL INTELLIGENCE REPORTS:

At Headquarters, USACIDC Intelligence Division criminal intelligence reports are destroyed when no longer needed. Except reports containing information of current operation value may be kept and reviewed yearly for continued retention, not to exceed 20 years. Group headquarters destroy after 5 years. District and field office elements destroy after 3 years or when no longer needed."

* * * * *

A0195–2b USACIDC

SYSTEM NAME:

Criminal Investigation and Crime Laboratory Files.

SYSTEM LOCATION:

Headquarters, U.S. Army Criminal Investigation Command, 27130 Telegraph Road, Quantico, VA 22134–2253.

Segments exist at subordinate U.S. Army Criminal Investigation Command elements. Addresses may be obtained from the Commander, U.S. Army Criminal Investigation Command, 27130 Telegraph Road, Quantico, VA 22134–2253.

An automated index of cases is maintained at the U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, 27130 Telegraph Road, Quantico, VA 22134–2253.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, civilian or military, involved in, witnessing or suspected of being involved in or reporting possible criminal activity affecting the interests, property, and/or personnel of the U.S. Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, rank, date and place of birth, chronology of events; reports of investigation and criminal intelligence reports containing statements of witnesses, suspects, subject and agents; laboratory reports, polygraph reports, documentary evidence, physical evidence, summary and administrative data pertaining to preparation and distribution of the report; basis for allegations; Serious or Sensitive Incident Reports, modus operandi and other investigative information from Federal, State, and local investigative and intelligence agencies and departments; similar relevant documents. Indices contain codes for the type of crime, location of investigation, year and date of offense, names and personal identifiers of persons who have been subjects of

electronic surveillance, suspects, subjects and victims of crimes, report number which allows access to records noted above; agencies, firms, Army and Defense Department organizations which were the subjects or victims of criminal investigations; and disposition and suspense of offenders listed in criminal investigative case files, witness identification data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 195–2, Criminal Investigation Activities; 42 U.S.C. 10606 *et seq.;* DoD Directive 1030.1, Victim and Witness Assistance; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To conduct criminal investigations, crime prevention and criminal intelligence activities; to accomplish management studies involving the analysis, compilation of statistics, quality control, *etc.*, to ensure that completed investigations are legally sufficient and result in overall improvement in techniques, training and professionalism. Includes personnel security, internal security, criminal, and other law enforcement matters, all of which are essential to the effective operation of the Department of the Army.

The records in this system are used for the following purposes: Suitability for access or continued access to classified information; suitability for promotion, employment, or assignment; suitability for access to military installations or industrial firms engaged in government projects/contracts; suitability for awards or similar benefits; use in current law enforcement investigation or program of any type including applicants; use in judicial or adjudicative proceedings including litigation or in accordance with a court order; advising higher authorities and Army commands of the important developments impacting on security, good order or discipline; reporting of statistical data to Army commands and higher authority; input into the Defense Security Service managed Defense Clearance and Investigations Index (DCII) database under system notice V5–02.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information concerning criminal or possible criminal activity is disclosed to Federal, State, local and/or foreign law enforcement agencies in accomplishing and enforcing criminal laws; analyzing modus operandi, detecting organized criminal activity, or criminal justice employment. Information may also be disclosed to foreign countries under the provisions of the Status of Forces Agreements, or Treaties.

To the Department of Veterans Affairs to verify veterans claims. Criminal investigative files may be used to adjudicate veteran claims for disability benefits, post traumatic stress disorder, and other veteran entitlements.

To Federal, state, and local agencies to comply with the Victim and Witness Assistance Program and the Victims' Rights and Restitution Act of 1990, when the agency is requesting information on behalf of the individual.

To Federal, state, and local law enforcement agencies and private sector entities for the purposes of complying with mandatory background checks, *i.e.*, Brady Handgun Violence Prevention Act (18 U.S.C. 922) and the National Child Protection Act of 1993 (42 U.S.C. 5119 *et seq.*).

To Federal, state, and local child protection services or family support agencies for the purpose of providing assistance to the individual.

To victims and witnesses of a crime for purposes of providing information, consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.

To the Immigration and Naturalization Service, Department of Justice, for use in alien admission and naturalization inquiries conducted under Section 105 of the Immigration and Naturalization Act of 1952, as amended.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

STORAGE:

Paper records in file folders and on electronic media.

RETRIEVABILITY:

By name or other identifier of individual.

SAFEGUARDS:

Access is limited to designated authorized individuals having official need for the information in the performance of their duties. Buildings' housing records are protected by security guards.

RETENTION AND DISPOSAL:

Reports of Investigation: At Headquarters, U.S. Army Criminal Investigation Command (USACIDC), criminal investigative case files are retained for 40 years after final action, except that at USACIDC subordinate elements, such files are retained from 1 to 5 years depending on the level of such unit and the data involved.

LABORATORY REPORTS:

Laboratory reports at the USACIDC laboratory are destroyed after 40 years.

CRIMINAL INTELLIGENCE REPORTS:

At Headquarters, USACIDC Intelligence Division criminal intelligence reports are destroyed when no longer needed. Except reports containing information of current operation value may be kept and reviewed yearly for continued retention, not to exceed 20 years. Group headquarters destroy after 5 years. District and field office elements destroy after 3 years or when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters, U.S. Army Criminal Investigation Command, 27130 Telegraph Road, Quantico, VA 22134–2253.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, *Attn:* CICR–FP, 27130 Telegraph Road, Quantico, VA 22134–2253.

For verification purposes, individual should provide the full name, date and place of birth, current address, telephone numbers, and signature.

RECORD ACCESS PROCEDURES:

Individual seeking access to information about themselves contained in this system should address written inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, *Attn:* CICR–FP, 27130 Telegraph Road, Quantico, VA 22134–2253.

For verification purposes, individual should provide the full name, date and place of birth, current address, telephone numbers, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–

21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Suspects, witnesses, victims, USACIDC special agents and other personnel, informants; various Department of Defense, federal, state, and local investigative agencies; departments or agencies of foreign governments; and any other individual or organization which may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 2011–20712 Filed 8–15–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before September 15, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov*. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: August 10, 2011.

Darrin King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of English Language Acquisition

Type of Review: Revision.

Title of Collection: Foreign Language Assistance Program for Local Educational Agencies: Grantee Performance Report.

OMB Control Number: 1885–0554.

Agency Form Number(s): N/A.

Frequency of Responses: Semi-Annually.

Affected Public: State, Local or Tribal Government.

Total Estimated Number of Annual Responses: 114.

Total Estimated Annual Burden Hours: 4,674.

Abstract: The grantee performance report will collect semi-annual information from grantees regarding their project service, goals, objective, performance and budget. Respondents are Local Educational Agencies grantees. The data will be used for reporting on the programs Government Performance Results Act measures, project monitoring, and program planning. The U.S. Department of Education Budget Service will use these data for making program budget recommendations to Congress.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 4630. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–20843 Filed 8–15–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 17, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment

on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 10, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of the Deputy Secretary

Type of Review: Extension.

Title of Collection: Race to the Top Program Review Protocols.

OMB Control Number: 1894–0011.

Agency Form Number(s): N/A.

Frequency of Responses: Semi-Annually.

Affected Public: State, Local or Tribal Government.

Total Estimated Number of Annual Responses: 12.

Total Estimated Number of Annual Burden Hours: 888.

Abstract: The American Recovery and Reinvestment Act of 2009 provides $4.3 billion for the Race to the Top Fund (referred to in the statute as the State Incentive Grant Fund). This is a competitive grant program. The purpose of the program is to encourage and reward States that are creating the conditions for education innovation and reform; achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers; and implementing ambitious plans in four core education reform areas: (a) Adopting internationally-benchmarked standards and assessments that prepare students for success in college and the workplace; (b) building data systems that measure student success and inform teachers and principals in how they can improve their practices; (c) increasing teacher effectiveness and achieving equity in teacher distribution; and (d) turning around our lowest-achieving schools.

The U.S. Department of Education (the Department) will collect this data from the 12 Race to the Top grantee states to inform its review of grantee implementation, outcomes, oversight, and accountability. The Department will use these forms to inform on-site visits, "stocktake" meetings with Implementation and Support Unit leadership at the Department, and annual reports for individual grantees and the grant program as a whole.

In order to allow for a comprehensive program review of the Race to the Top grantees, we are requesting a three-year clearance with this form.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4666. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–20844 Filed 8–15–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP11–523–000; PF10–20–000]

Sawgrass Storage, L.L.C.; Notice of Application

Take notice that on July 27, 2011, Sawgrass Storage, L.L.C. (Sawgrass), having its principal place of business at 3333 Warrenville Road, Suite 300, Lisle, IL, 605432, filed an application in Docket No. CP11–523–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) and Parts 157 and 284 of the Commission's Regulations, for a certificate of public convenience and necessity to construct and operate its Sawgrass Storage Project. The Sawgrass Storage Project consists of the construction and operation of a depleted gas production reservoir natural gas storage facility in Lincoln and Union Parishes, Louisiana with a total capacity of 30 Bcf and a maximum daily injection and withdrawal rate of 300 MMcf/d; 5 wellpads with a total of up to 16 horizontally drilled wells; 5 observation wells; approximately 5.5 miles of 20/24-inch-diameter gathering pipeline; a Gas Handling Facility with approximately 19,000 horsepower of compression; approximately 14 miles of 30-inch-diameter mainline pipeline; an interconnect with Midcontinent Express Pipeline's interstate pipeline system, and other appurtenant facilities. Also, Sawgrass seeks a blanket certificate pursuant Subpart G of 18 CFR Part 284 to provide open-access firm and interruptible natural gas storage services and hub services. Finally, Sawgrass requested authorization to provide the proposed storage and hub service at market-based rates, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Stephen Cittadine, Vice President, Sawgrass Storage, LLC, 3333 Warrenville Road, Suite 300, Lisle, IL 60532 by calling (630) 245–7800.

On June 14, 2010, the Commission staff granted Sawgrass' request to use the pre-filing process and assigned Docket No. PF10–20–000 to staff activities involving the Sawgrass Storage Project. Now, as of the filing of this application on July 27, 2011, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP11–523–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's regulations, 18 CFR 157.9, within 90 days of this Notice, the Commission's staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission's staff issuance of the EA

for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to reach a final decision on a request for federal authorization within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: August 30, 2011.

Dated: August 9, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–20752 Filed 8–15–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. P–13010–001]

Mississippi 8 Hydro LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent To File License Application and Request To Use the Traditional Licensing Process.

b. *Project No.:* P–13010–001.

c. *Dated Filed:* June 10, 2011.

d. *Submitted By:* Mississippi 8 Hydro LLC.

e. *Name of Project:* Mississippi Lock & Dam No. 8 Project.

f. *Location:* The project would be located on the upper Mississippi River in Houston County, Minnesota at an existing lock and dam owned and operated by the U.S. Corps of Engineers (Corps) at about river mile 679. The project would occupy federal lands managed by the Corps and the U.S. Fish and Wildlife Service.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Brent Smith, Chief Operating Officer, Symbiotics LLC, 371 Upper Terrace, Suite 2, Bend, Oregon 97702; Phone: 541–330–8779.

i. *FERC Contact:* Lesley Kordella at (202) 502–6406; or e-mail at Lesley.Kordella@ferc.gov.

j. Mississippi 8 Hydro LLC filed its request to use the Traditional Licensing Process on June 10, 2011. Mississippi 8 Hydro LLC provided public notice of its request on June 13, 2011. In a letter dated August 9, 2011, the Director of Hydropower Licensing approved Mississippi 8 Hydro LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Minnesota State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Mississippi 8 Hydro LLC as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Mississippi 8 Hydro LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: August 9, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–20753 Filed 8–15–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14170–000]

Riverbank Hydro No. 14, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On May 2, 2011, Riverbank Hydro No. 14, LLC (Riverbank Hydro), filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Tuttle Creek Hydroelectric Project (Tuttle Creek Project or project) to be located at the U.S. Army Corps of Engineers' (Corps) Tuttle Creek Dam, on Big Blue River, near Manhattan, Riley County, Kansas. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 350-foot-long, 16-foot-diameter penstock bifurcating from the existing outlet structure; (2) a 100-foot-long, 50-foot-wide concrete powerhouse containing one turbine with a generator rating of 7.9 megawatts; (3) a tailrace structure directing flows from the powerhouse back into the river channel downstream of the existing dam; (4) a 2.8-mile-long, 25-kilovolt transmission line connecting the project to an existing transmission line; and (5) appurtenant facilities. The estimated annual generation of the Tuttle Creek Project would be 30.5 gigawatt-hours.

Applicant Contact: Mr. Kuo-Bao Tong, Riverbank Power Corporation, Royal Bank Plaza, South Tower, P.O. Box 166, 200 Bay Street, Suite 3230, Toronto, Ontario, Canada M5J2J4; phone: (416) 861–0092, extension 154.

FERC Contact: Sergiu Serban; phone: (202) 502–6211.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14170–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 9, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–20754 Filed 8–15–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Power Rates: Correction

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment; Correction.

SUMMARY: Southwestern Power Administration published a document in the **Federal Register** (76 FR 48159) on August 8, 2011, announcing the public review and comment period on proposed rates. Inadvertently, the date listed for the combined Public Information and Comment Forum (Forum) was erroneously listed in the **DATES** section as of August 16, 2011. The correct date and time for the Forum, if requested, will be August 30, 2011, at 9 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. James K. McDonald, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6690, *jim.mcdonald@swpa.gov.*

Dated: August 10, 2011.

Jon Worthington,

Administrator.

[FR Doc. 2011–20934 Filed 8–12–11; 4:15 pm]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2004–0013; FRL–9452–1]

Agency Information Collection Activities; Proposed Collection; Comment Request; EPA Strategic Plan Information on Source Water Protection

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on December 31, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described in the **SUPPLEMENTARY INFORMATION** section.

DATES: Comments must be submitted on or before October 17, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2004–0013 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: OW-Docket@epa.gov.*
- *Mail:* Water Docket, Environmental Protection Agency, EPA Docket Center (EPA/DC), *Mailcode:* 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* The EPA Docket Center at the Public Reading Room, Room B3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2004–0013. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Beth Hall, Drinking Water Protection Division—Prevention Branch, Office of Ground Water and Drinking Water (MC 4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202–564–3883; *fax number:* 202–564–3756; *e-mail address: hall.beth@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2004–0013, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES.**

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are State environmental and health agencies.

Title: EPA Strategic Plan Information on Source Water Protection.

ICR numbers: EPA ICR No. 1816.05, OMB Control No. 2040–0197.

ICR status: This ICR is currently scheduled to expire on December 31, 2011. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA is collecting, on a voluntary basis, data from the states on their progress toward substantial implementation of prevention strategies for all community water systems (CWSs). The information to be collected will help states and EPA understand the progress toward the Agency's goal of increasing the number of CWSs (and the populations they serve) with minimized risk to public health through development and implementation of source water protection strategies for source water areas. The Safe Drinking Water Act, while authorizing the generation of this data, does not require the implementation of source water protection programs by States. Section 1452 of the Safe Drinking Water Act allows the use of Drinking Water State Revolving Fund monies for support efforts in the information collection.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 27.6 hours per annual response for each respondent, or 4,224 hours over the next three years of the information collection. Burden means the total time, effort, or financial

resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 51.

Frequency of response: annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 1,408.

Estimated total annual costs: $58,325. All of this cost is associated with labor; there are no capital investment or maintenance and operational costs associated with this ICR.

Are there changes in the estimates from the last approval?

There is a decrease of 308 hours in the total estimated annual respondent burden compared with that identified in the ICR currently approved by OMB. This decrease results from reduced labor burden associated with automated reporting of progress toward developing and implementing prevention strategies for all community water systems via the Safe Drinking Water Information System (SDWIS). EPA estimates that 11 states will incur reduced burden by using the capabilities of SDWIS to report to EPA on the status of contamination prevention efforts in their states.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: August 11, 2011.

Ronald W. Bergman,

Acting Director, Office of Ground Water & Drinking Water.

[FR Doc. 2011–20827 Filed 8–15–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9451–8]

Science Advisory Board Staff Office; Notification of Public Teleconferences of the Science Advisory Board Radiation Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two teleconferences of the SAB Augmented Radiation Advisory Committee (RAC) to discuss the draft advisory report related to uranium and thorium in-situ leach recovery and post-closure stability monitoring.

DATES: The public teleconferences will be conducted on Tuesday, September 6, 2011 and Wednesday, October 5, 2011, from 1 p.m. to 4 p.m. (Eastern Daylight Time).

ADDRESSES: The public teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Notice may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), SAB Staff Office (1400R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by telephone/voice mail at (202) 564–2064, or via e-mail at *kooyoomjian.jack@epa.gov*. General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http//www.epa.gov/sab*.

Technical Contact: Technical background information pertaining to the Uranium In-Situ leach recovery—Post-Closure Stability Monitoring can be found at *http://www.epa.gov/radiation/tenorm/pubs.html*. Information pertaining to EPA's regulatory standards in 40 CFR part 192—Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings can be found at *http://yosemite.epa.gov/opei/rulegate.nsf/byRIN/2060–AP43?opendocument*. For questions concerning the technical aspects of this topic, please contact Dr. Mary E. Clark of the U.S. EPA, ORIA by telephone at (202) 343–9348, or via e-mail at *clark.marye@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review advice, consultation and recommendations to the EPA Administrator on the technical basis for Agency actions, positions and regulations. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Pursuant to FACA and EPA policy, notice is hereby given that the augmented RAC will hold two public teleconferences. The SAB will comply with the provisions of FACA and all appropriate EPA and SAB Staff Office procedural policies.

The EPA has requested the SAB review the Agency draft technical document on ISL/ISR post closure stability monitoring to evaluate what criteria should be considered to establish a specific period of monitoring for ISL/ISR facilities, once uranium extraction operations are completed. Among the issues to be considered are whether specific site characteristics, features or benchmarks can be used to aid in establishing a post-closure monitoring time period; and if other technical approaches should be considered by EPA to provide reasonable assurances of aquifer stability and groundwater protection. The Agency's draft technical document will be used as a basis to evaluate the technical and scientific issues pertaining to standards in 40 CFR part 192—Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings. The SAB RAC augmented with additional experts held an initial public teleconference of July 12. 2011 and a two-day meeting on July 18 and 19, 2011 to discuss advisory comments on the EPA's June 2011 draft technical document entitled "*Considerations Related to Post-Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery (ISL/ISR) Sites*". These previous meetings were announced in the **Federal Register** on Thursday, June 23, 2011 (Vol. 76, No. 121, pp. 36918–36919). The purpose of the September 6, 2011 and October 5, 2011 public teleconferences is for the augmented RAC to discuss its draft advisory report on this topic.

Availability of Meeting Materials: The Agenda, roster of the augmented RAC,

the charge to the SAB for the consultation, and other supplemental materials in support of the two public teleconferences will be placed on the SAB Web site at *http//www.epa.gov/sab* in advance of the teleconference and meeting.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer directly at the contact information provided.

Oral Statements: In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Those interested in being placed on the public speakers list for either the September 6 and October 5, 2011 teleconferences should contact Dr. Kooyoomjian at the contact information provided above no later than noon on September 2, 2011 for the September 6, 2011 teleconference, and no later than October 3, 2011 for the October 5, 2011 teleconference.

Written Statements: Written statements should be supplied to the DFO via e-mail at the contact information noted by noon September 2, 2011 for the September 6, 2011 teleconference, and no later than Monday, October 3, 2011 for the October 5, 2011 teleconference, so that the information may be made available to the members of the augmented RAC and the public for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows98/2000/XP format. It is the SAB Staff office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document, because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Kooyoomjian at (202) 564–2064, or e-mail *kooyoomjian.jack@epa.gov*. To request accommodation of a disability, please contact Dr. Kooyoomjian preferably at least ten days prior to the teleconference or meeting to give as much time as possible to process your request.

Dated: August 9, 2011.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–20824 Filed 8–15–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9451–9]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered SAB on September 7, 2011 to conduct a quality review of a draft SAB report, Peer Review of EPA's Draft National-Scale Mercury Risk Assessment (08/04/11) Draft.

DATES: The public teleconference will be held on September 7, 2011 from 12 p.m. to 3 p.m. (Eastern Daylight Time).

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning the public teleconference may contact Dr. Angela Nugent, Designated Federal Officer (DFO). Dr. Nugent may be contacted at the EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by telephone/voice mail at (202) 564–2218; fax at (202) 565–2098; or e-mail at *nugent.angela@epa.gov*. General information concerning the EPA Science Advisory Board can be found on the EPA Web site at *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public teleconference to conduct a quality review of an SAB draft report entitled *Peer Review of EPA's Draft National-Scale Mercury Risk Assessment (08/04/1 Draft)*. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: EPA is considering regulating the emissions of hazardous air pollutants (HAPs) released from coal-burning electric generating units in the United States (U.S. EGUs) under Section 112(n)(1)(A) of the Clean Air Act (CAA). EPA developed a draft risk assessment for mercury, entitled *Technical Support Document: National-scale Mercury Risk Assessment*. The draft assessment considers the nature and magnitude of the potential risk to public health posed by current U.S. EGU mercury emissions and the nature and magnitude of the potential risk posed by U.S. EGU mercury in the future, once all anticipated CAA-related regulations potentially reducing mercury from U.S. EGUs are in place. EPA's Office of Air and Radiation requested peer review of this draft document. The SAB Mercury Review Panel has prepared a review report on EPA's draft technical document. The Charted SAB will conduct a quality view of the SAB Panel's draft review report.

Background information about the SAB advisory activity can be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Oil%20Spill%20Research%20Strategy?OpenDocument*.

Availability of Meeting Materials: The agenda and other materials in support of the teleconference will be placed on the SAB Web site at *http://www.epa.gov/sab* in advance of the teleconference.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and

panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Those interested in being placed on the public speakers list for the September 7, 2011 teleconference should contact Dr. Nugent at the contact information provided above no later than September 1, 2011. *Written Statements:* Written statements should be supplied to the DFO via e-mail at the contact information noted above by September 1, 2011 for the teleconference so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Nugent (202) 564–2218 or *nugent.angela@epa.gov*. To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: August 9, 2011.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–20825 Filed 8–15–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted to the Office of Management and Budget for Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written comments should be submitted on or before September 15, 2011. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202–395–5167, or via e-mail *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via e-mail *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 76.1701 and 73.1943, Political Files.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not for-profit institutions.

Number of Respondents and Responses: 25,422 respondents; 59,833 responses.

Estimated Time per Response: 1 hour to 109 hours.

Frequency of Response: Recordkeeping and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefit. The statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,176,815 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission published a 60-day notice on April 18, 2011 seeking comments from the public (see 76 FR 21739). This current published notice is seeking an

additional 30 days of public comment. The Commission received the previous comments from the 60-day notice and has taken them into account.

The Commission first adopted a public inspection file requirement more than 40 years ago. The public file requirement grew out of Congress' 1960 amendment of Sections 309 and 311 of the Communications Act of 1934. Finding that Congress, in enacting these provisions, was guarding "the right of the general public to be informed, not merely the rights of those who have special interests," the Commission adopted the public inspection file requirement to "make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees." In return for their exclusive use of public spectrum, broadcasters must operate and program their stations in the "public interest, convenience and necessity." This means that all stations must be responsive and accountable to their local community of license. The manner in which broadcasters communicate with their communities is a core function of their role as licensees. Specific items in the public file, listed below, include items that provide station information to the public, like ownership reports, contour maps, citizens agreements, EEO reports and quarterly lists of programs that the stations believe addressed important issues in their community. Access to the public inspection file allows the public to monitor a station's public interest performance. The information provided in a station's public file enables citizens to engage in an informed dialog with their local stations or to file complaints or petitions to deny the renewal of a station's license. Comments, complaints, and petitions to deny filed by the viewing public have long been a part of the regulatory and the renewal process. As part of the Commission's license renewal process, the Commission does not routinely monitor every aspect of stations' compliance with Commission rules; rather, it depends on viewers and listeners to provide information about whether stations are meeting their public interest obligations.

The following Information Collection Requirements are part of this collection and have been approved by OMB:

47 CFR 73.3526(a) and 73.3527(a) require that licensees and permittees of commercial and noncommercial educational (NCE) broadcast stations maintain a local public inspection file. The contents of the file vary according to type of service and status. A separate file shall be maintained for each station for which an application is pending or for which an authorization is outstanding. The public inspection file must be maintained so long as an authorization to operate the station is outstanding.

47 CFR 73.3526(b) and 73.3527(b) require that the public inspection file be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

47 CFR 73.3526(c) and 73.3527(c) require the licensee/permittee to make the file available for public inspection at any time during regular business hours. All or part of this file may be maintained in a computer database as long as a computer terminal is made available to members of the public. Materials in the public file must be made available for review, printing or reproduction upon request.

Licensees that maintain their main studios and public file outside their communities of license are required to mail a copy of "The Public and Broadcasting" to anyone requesting a copy. Licensees shall be prepared to assist members of the public in identifying the documents they may want to be sent to them by mail.

47 CFR 73.3526(d) and 73.3527(d) require an assignor to maintain the public inspection file until such time as the assignment is consummated. At that time, the assignee is required to maintain the file.

47 CFR 73.3526(e) and 73.3527(e) specify the contents of the public inspection files. Separate rule sections not subject to this information collection require the creation and submission to the Commission of many of the items that must be retained in the public inspection file. As such, the burden estimates for creation and submission of these documents are calculated in other information collections. The burden estimates included in this information collection pertain only to making these items publicly available. We have listed below some of the relevant information collections pertaining to the creation and submission of such documents. The documents to be retained in the public inspection files are as follows:

(a) A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization;

(b) A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decision and Final Decisions in hearing cases. If petitions to deny are filed against the application, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition [Application for Construction Permit for Commercial Broadcast Station (OMB control number 3060–0027, FCC Form 301; Application for New Commercial or Noncommercial Educational Broadcast Station License (OMB control number 3060–0029, FCC Form 340); Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications (OMB control number 3060–0031)];

(c) For commercial broadcast stations, a copy of every written citizen agreement;

(d) A copy of any service contour maps, submitted with any application, together with any other information in the application showing service contours and/or main studio and transmitter location;

(e) A copy of the most recent, complete Ownership Report (FCC Form 323) filed with the FCC for the station, together with any statements filed with the FCC certifying that the current Report is accurate [Ownership Report for Broadcast Station (OMB control number 3060–0010, FCC Form 323); Ownership Report for Noncommercial Educational TV, FM or Standard Broadcast Station (OMB control number 3060–0084, FCC Form 323–E)];

(f) A political file of records required by 47 CFR 73.1943 concerning broadcasts by candidates for public office [Section 73.1942, Candidates Rates, 76.206, Candidates Rates, Section 76.1611, Political Cable Rates and Classes of Time (OMB control number 3060–0501)];

(g) An Equal Employment Opportunity File required by 47 CFR 73.2080 [Broadcast EEO Program Report, FCC Form 396 (OMB control number 3060–0113); Multi-Channel Video Program Distributor EEO Program Annual Report (OMB control number 3060–1033, FCC Form 396–C)].

(h) A copy of the most recent edition of the manual entitled "The Public and Broadcasting;"

(i) For commercial broadcast stations, all written comments and suggestions (letters and electronic mail) received from the public regarding operation of the station;

(j) Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant/permittee/licensee has been advised;

(k) For commercial radio and TV broadcast stations and non-exempt NCE broadcast stations, a list of programs that have provided the station's most significant treatment of community issues. This list is kept on a quarterly basis and contains a brief description of how each issue was treated;

(l) For commercial TV broadcast stations, records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's television programming. The records must be placed in the public file quarterly. The FCC Form 398, Children's Television Programming Reports, reflecting efforts made by the licensee during the preceding quarter, and efforts planned for the next quarter, to serve the educational and informational needs of children must be placed in the public file quarterly [Children's Television Programming Report (OMB control number 3060–0754, FCC Form 398)];

(m) For NCE stations, a list of donors supporting specific programs. The list is to be retained for two years from the date of the broadcast of the specific program supported, and will be reserved for sponsors/underwriters of specific programming;

(n) Each applicant for renewal of license shall place in the public file a statement certifying compliance with the pre-filing and post-filing local public notice announcements. These statements shall be placed in the public file within 7 days of the last day of broadcast [Section 73.3580, Local Public Notice of Filing of Broadcast Applications (OMB control number 3060–0031)];

(o) Commercial radio and TV licensees who provide programming to another licensee's station, pursuant to time brokerage agreements, are required to keep copies of those agreements in their public inspection files, with confidential information blocked out where appropriate;

(p) Commercial TV stations must make an election between retransmission consent and must-carry status once every three years. Television stations that fail to make an election will be deemed to have elected must-carry status. This statement must be placed in the station's public inspection file. This rule codifies Section 325(b)(3)(B) of the Communications Act of 1934, as amended [Section 73.1601, Deletion of Repositioning of Broadcast Signals; Section 76.1617, Initial Must-Carry Notice; and Sections 76.1697 and 76.1708, Principal Headend (OMB control number 3060–0649)];

(q) NCE television stations requesting mandatory carriage on any cable system pursuant to 47 CFR 76.56 shall place in its public file the request and relevant correspondence; and

(r) Commercial radio and TV licensees who have entered into joint sales agreements must place the agreements in the public inspection file, with confidential and propriety information blocked out where appropriate.

47 CFR 73.1212(e), 73.1943 and 76.1701 require licensees of broadcast stations and every cable television system to keep and permit public inspection of a complete record (political file) of all requests for broadcast and cablecast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file as soon as possible and maintained for a period of two years. 47 CFR 73.1212(e) and 76.1701 also require that, when an entity sponsors broadcast or cablecast material that concerns a political matter or a discussion of a controversial issue of public importance, a list must be maintained in the public file of the system that includes the sponsoring entity's chief executive officers, or members of its executive committee or of its board of directors [Sections 73.1212, 76.1615 and 76.1715, Sponsorship Identification (OMB control number 3060–0174); Section 73.1942, Candidates Rates, 76.206, Candidates Rates, Section 76.1611, Political Cable Rates and Classes of Time (OMB control number 3060–0501)].

The Commission is requesting an extension of this information collection for a three year period from OMB.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–20719 Filed 8–15–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: ALELUYA BROADCASTING NETWORK, Station NEW, Facility ID 123270, BMPED–20110629BPM, From BAY CITY, TX, To LOUISE, TX; DAVID L. SMITH, Station WGRL, Facility ID 170939, BMPH–20110718ABP, From FREDERIC, MI, To TUSCARORA TOWNSHIP, MI; L. TOPAZ ENTERPRISES, INC., Station NEW, Facility ID 189562, BNPH–20110624ADA, From MCCALL, ID, To UNION, OR; M&M BROADCASTERS, LTD., Station KHHG, Facility ID 170991, BPH–20110620AGF, From HAMILTON, TX, To HICO, TX; NORMIN BROADCASTING CO., Station NEW, Facility ID 189577, BNPH–20110630AIA, From RED LAKE, MN, To RED LAKE FALLS, MN; S & S VENEGAS, LLC, Station KRBN, Facility ID 170993, BPH–20110627ABP, From BURNEY, CA, To MANTON, CA; SOUTH SOUND BROADCASTING, LLC, Station KOMO–FM, Facility ID 51167, BMPH–20110630AGT, From OAKVILLE, WA, To BELFAIR, WA; SUNNYLANDS BROADCASTING LLC, Station NEW, Facility ID 189496, BNPH–20110630AGJ, From ILWACO, WA, To OAKVILLE, WA; THRESHOLD COMMUNICATIONS, Station NEW, Facility ID 189494, BNPH–20110630AHJ, From CLATSKANIE, OR, To FORDS PRAIRIE, WA; TLAPEK, DON J, Station NEW, Facility ID 189525, BNPH–20110628ABN, From GUNNISON, CO, To OLATHE, CO.

DATES: The agency must receive comments on or before October 17, 2011.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this

application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2011–20828 Filed 8–15–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficient Assets To Satisfy Claims Against Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: The FDIC has determined that insufficient assets exist in the receivership of R–G Premier Bank of Puerto Rico, Hato Rey, Puerto Rico, to make any distribution to general unsecured claims, and therefore such claims will recover nothing and have no value.

DATES: The FDIC made its determination on August 2, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice, you may contact an FDIC Claims Agent at (904) 256–3925. Written correspondence may also be mailed to FDIC as Receiver of R–G Premier Bank of Puerto Rico, Attention: Claims Agent, 7777 Baymeadows Way West, Jacksonville, Florida 32256.

SUPPLEMENTARY INFORMATION: On April 30, 2010, R–G Premier Bank of Puerto Rico, Hato Rey, Puerto Rico, (FIN #10230) was closed by the Office of the Commissioner of Financial Institutions of the Commonwealth of Puerto Rico ("OCFI"), and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its receiver ("Receiver"). In complying with its statutory duty to resolve the institution in the method that is least costly to the deposit insurance fund, see 12 U.S.C. 1823(c)(4), the FDIC facilitated a transaction with Scotiabank de Puerto Rico, San Juan, Puerto Rico, to acquire the deposits and most of the assets of the failed institution.

Section 11(d)(11)(A) of the FDI Act, 12 U.S.C. 1821(d)(11)(A), sets forth the order of priority for distribution of amounts realized from the liquidation or other resolution of an insured depository institution to pay claims. Under the statutory order of priority, administrative expenses and deposit liabilities must be paid in full before any distribution may be made to general unsecured creditors or any lower priority claims.

As of May 31, 2011, the value of assets available for distribution by the Receiver, together with maximum possible recoveries on claims against directors, officers, and other professionals, and claims in bankruptcy was $3,321,421,322. As of the same date, administrative expenses and depositor liabilities equaled $4,671,704,953, exceeding available assets and potential recoveries by $1,350,283,631. Accordingly, the FDIC has determined that insufficient assets exist to make any distribution on general unsecured creditor claims (and any lower priority claims) and therefore all such claims, asserted or unasserted, will recover nothing and have no value.

Dated: August 11, 2011.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–20765 Filed 8–15–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficient Assets To Satisfy Claims Against Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: The FDIC has determined that insufficient assets exist in the receivership of Eurobank, San Juan, Puerto Rico, to make any distribution on general unsecured claims, and therefore such claims will recover nothing and have no value.

DATES: The FDIC made its determination on August 2, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice, you may contact an FDIC Claims Agent at (904) 256–3925. Written correspondence may also be mailed to FDIC as Receiver of Eurobank, Attention: Claims Agent, 7777 Baymeadows Way West, Jacksonville, Florida 32256.

SUPPLEMENTARY INFORMATION: On April 30, 2010, Eurobank, San Juan, Puerto Rico, (FIN #10229) was closed by the Office of the Commissioner of Financial Institutions of the Commonwealth of Puerto Rico ("OCFI"), and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its receiver ("Receiver"). In complying with its statutory duty to resolve the institution in the method that is least costly to the deposit insurance fund, *see* 12 U.S.C. 1823(c)(4), the FDIC facilitated a transaction with Oriental Bank and Trust, San Juan, Puerto Rico, to acquire the deposits and most of the assets of the failed institution.

Section 11(d)(11)(A) of the FDI Act, 12 U.S.C. 1821(d)(11)(A), sets forth the order of priority for distribution of amounts realized from the liquidation or other resolution of an insured depository institution to pay claims. Under the statutory order of priority, administrative expenses and deposit liabilities must be paid in full before any distribution may be made to general unsecured creditors or any lower priority claims.

As of May 31, 2011, the value of assets available for distribution by the Receiver, together with anticipated recoveries on claims against directors, officers, and other professionals was $742,676,348. As of the same date, administrative expenses and depositor liabilities equaled $1,466,183,675, exceeding available assets and potential recoveries by $723,507,327. Accordingly, the FDIC has determined that insufficient assets exist to make any distribution on general unsecured creditor claims (and any lower priority claims) and therefore all such claims, asserted or unasserted, will recover nothing and have no value.

Dated: August 11, 2011.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–20766 Filed 8–15–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficient Assets To Satisfy Claims Against Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: The FDIC has determined that insufficient assets exist in the receivership of Westernbank Puerto Rico, Mayaguez, Puerto Rico, to make any distribution to general unsecured claims, and therefore such claims will recover nothing and have no value.

DATES: The FDIC made its determination on August 2, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice, you may contact an FDIC Claims

Agent at (904) 256–3925. Written correspondence may also be mailed to FDIC as Receiver of Westernbank Puerto Rico, Attention: Claims Agent, 7777 Baymeadows Way West, Jacksonville, Florida 32256.

SUPPLEMENTARY INFORMATION: On April 30, 2010, Westernbank Puerto Rico, Mayaguez, Puerto Rico, (FIN #10231) was closed by the Office of the Commissioner of Financial Institutions of the Commonwealth of Puerto Rico ("OCFI"), and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its receiver ("Receiver"). In complying with its statutory duty to resolve the institution in the method that is least costly to the deposit insurance fund, *see* 12 U.S.C. 1823(c)(4), the FDIC facilitated a transaction with Banco Popular de Puerto Rico, San Juan, Puerto Rico, to acquire the deposits and most of the assets of the failed institution.

Section 11(d)(11)(A) of the FDI Act, 12 U.S.C. 1821(d)(11)(A), sets forth the order of priority for distribution of amounts realized from the liquidation or other resolution of an insured depository institution to pay claims. Under the statutory order of priority, administrative expenses and deposit liabilities must be paid in full before any distribution may be made to general unsecured creditors or any lower priority claims.

As of May 31, 2011, the value of assets available for distribution by the Receiver, together with anticipated recoveries on claims against directors, officers, and other professionals, and tax refunds was $4,673,843,188. As of the same date, administrative expenses and depositor liabilities equaled $8,031,697,095, exceeding available assets and potential recoveries by $3,357,853,907. Accordingly, the FDIC has determined that insufficient assets exist to make any distribution on general unsecured creditor claims (and any lower priority claims) and therefore all such claims, asserted or unasserted, will recover nothing and have no value.

Dated: August 11, 2011.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–20767 Filed 8–15–11; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Policy Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The meeting will be held on September 14, 2011, from 10 a.m. to 3 p.m./Eastern Time.

Location: Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, *Fax:* 202–690–6079, *e-mail: judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups, including the Meaningful Use Workgroup, the Privacy & Security Tiger Team, the Enrollment Workgroup, and the Quality Measures Workgroup. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 9, 2011. Oral comments from the public will be scheduled between approximately 1 and 2 p.m. Time allotted for each presentation is limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets. .

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: August 8, 2011.

Judith Sparrow,

Federal Advisory Committee Director, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–20808 Filed 8–15–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Standards Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Standards Committee.

General Function of the Committee: to provide recommendations to the National Coordinator on standards,

implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The meeting will be held on September 28, 2011, from 9 a.m. to 3 p.m./Eastern Time.

Location: Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, *Fax:* 202–690–6079, *e-mail: judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups, including the Clinical Operations, Vocabulary Task Force, Clinical Quality, and Implementation Workgroups. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 23, 2011. Oral comments from the public will be scheduled between approximately 2 and 3 p.m./Eastern Time. Time allotted for each presentation will be limited to three minutes each. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: August 8, 2011.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–20809 Filed 8–15–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Policy Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Policy Committee's Workgroups: Meaningful Use, Privacy & Security Tiger Team, Quality Measures, Adoption/Certification, and Information Exchange workgroups.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The HIT Policy Committee Workgroups will hold the following public meetings during September 2011: September 9th Privacy & Security Tiger Team, 2 to 4 p.m./ET; September 15th, Meaningful Use Workgroup, 10 to 12 p.m./ET; September 23rd Privacy & Security Tiger Team, 2 to 4 p.m./ET; TBD Enrollment Workgroup and other workgroups.

Location: All workgroup meetings will be available via Webcast; for instructions on how to listen via telephone or Web visit *http://healthit.hhs.gov.* Please check the ONC Web site for additional information or revised schedules as it becomes available.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, e.g., meaningful use, information exchange, privacy and security, quality measures, governance, or adoption/certification. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroup's meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: August 8, 2011.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–20811 Filed 8–15–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Standards Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Standards Committee's Workgroups: Clinical Operations, Vocabulary Task Force, Clinical Quality, Implementation, and Privacy & Security Standards workgroups.

General Function of the Committee: To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The HIT Standards Committee Workgroups will hold the following public meetings during September 2011: September 22nd Implementation Workgroup, 3 to 5 p.m./ET; TBD other Workgroups' calls.

Location: All workgroup meetings will be available via Webcast; visit *http://healthit.hhs.gov* for instructions on how to listen via telephone or Web. Please check the ONC Web site for additional information and schedules as it becomes available. Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, *Fax:* 202–690–6079, *e-mail: judy.sparrow@hhs.gov* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, e.g., clinical operations, vocabulary standards, clinical quality, implementation opportunities and challenges, and privacy and security standards activities. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroups' meeting dates. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: August 8, 2011.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–20815 Filed 8–15–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0555]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extra Label Drug Use in Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements associated with extra label drug use in animals.

DATES: Submit either electronic or written comments on the collection of information by October 17, 2011.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Juanmanuel Vilela, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7651, *Juanmanuel.vilela@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether

the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Extra Label Drug Use in Animals—21 CFR Part 530 (OMB Control Number 0910–0325—Extension)

The Animal Medicinal Drug Use Clarification Act of 1994 allows a veterinarian to prescribe the extra-label use of approved new animal drugs. Also, it permits FDA, if it finds that there is a reasonable probability that the extra-label use of an animal drug may present a risk to the public health, to establish a safe level for a residue from the extra-label use of the drug, and to require the development of an analytical method for the detection of residues above that established safe level. Although to date, we have not established a safe level for a residue from the extra-label use of any new animal drug, and therefore, have not required the development of analytical methodology, we believe that there may be instances when analytical methodology will be required. We are therefore estimating the reporting burden based on two methods being required annually. The requirement to establish an analytical method may be fulfilled by any interested person. We believe that the sponsor of the drug will be willing to develop the method in most cases. Alternatively, FDA, the sponsor, and perhaps a third party may cooperatively arrange for method development. The respondents may be sponsors of new animal drugs, State, or Federal and/or State Agencies, academia, or individuals.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
530.22(b)	2	1	2	4,160	8,320

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: August 10, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–20813 Filed 8–15–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0568]

Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study: Disease Information in Branded Promotional Material

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on research entitled "Experimental Study: Disease Information in Branded Promotional Material." The proposed research will explore the nature of including information about a disease and promotional information about a specific drug treatment in the same advertising piece.

DATES: Submit either electronic or written comments on the collection of information by October 17, 2011.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–3972, *Elizabeth.Berbakos@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Experimental Study: Disease Information in Branded Promotional Material—(OMB Control Number 0910–New)

Regulatory Background: Section 1701(a)(4) of the Public Health Service

Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 903(b)(2)(c) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 393(b)(2)(c)) authorizes FDA to conduct research relating to drugs and other FDA regulated products in carrying out the provisions of the FD&C Act.

FDA regulations require prescription drug advertisements to contain accurate information about the benefits and risks of the drug advertised. Generally, the advertising must not be misleading about the effectiveness of the drug. Specifically, the ad must not contain a representation or suggestion that the drug is better than has been shown by substantial evidence or useful in a broader range of patients.[1] The regulations prohibit sponsors from, for example, disseminating promotional information that may broaden the indications of medications beyond the indication for which they have been approved. This regulation is designed to avoid misleading the audience by overpromising the outcomes of a particular drug and also to maintain a level playing field among competitors.

As a public health agency, FDA encourages the communication of accurate health messages about medical conditions and treatments. One way in which broad disease information is communicated to the public is through disease awareness communications:

"Disease awareness communications are communications disseminated to consumers or health care practitioners that discuss a particular disease or health condition, but do not mention any specific drug or device or make any representation or suggestion concerning a particular drug or device. Help-seeking communications are disease awareness communications directed at consumers. FDA believes that disease awareness communications can provide important health information to consumers and health care practitioners, and can encourage consumers to seek, and health care practitioners to provide, appropriate treatment. This is particularly important for under-diagnosed, under-treated health conditions, such as depression, hyperlipidemia, hypertension, osteoporosis, and diabetes. Unlike drug and device promotional labeling and prescription drug and restricted device advertising, disease awareness communications are not subject to the requirements of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) and FDA regulations."[2]

Some research has shown that disease awareness advertising is viewed by consumers as more informative and containing less persuasive intent than full product advertising.[3]

Sponsors may choose to include disease information in their full product promotions. Such information is designed to educate the patient about his or her disease condition. However, in some cases a full description of the medical condition may include information about specific health outcomes that are not part of a drug's approved indication. The current project is designed to determine if providing such information in branded full product advertisements affects perceptions of the product.

When broad disease information accompanies or is included in an ad for a specific drug, consumers may mistakenly assume that the drug will address all of the potential consequences of the condition mentioned in the ad by making inferences that go beyond what is explicitly stated in an advertisement.[4] For example, the mention of diabetic retinopathy in an advertisement for a drug that lowers blood glucose may lead consumers to infer that the drug will prevent diabetic retinopathy, even if no direct claim is made. The advertisement may imply broader indications for the promoted drug than are warranted, leading consumers to infer effectiveness of the drug beyond the indication for which it was approved. If consumers are able to distinguish between disease information and product claims in an ad, then they will not be misled by the inclusion of disease information in a branded ad. If consumers are unable to distinguish these two, however, then consumers may be misled into believing that a particular drug is effective against long-term consequences. The current study will explore perceptions that result from including both disease information and promotional information about a specific drug in the same advertising piece.

Design Overview: We will investigate the effects of adding disease information to branded promotional materials on consumer perceptions and understanding. Disease information will be examined in the context of direct-to-consumer (DTC) prescription drug print advertisements. We hope to more readily generalize our findings by exploring the issues raised above in three medical conditions varying in severity and symptomatology. For example, disease information in a category such as oncology may be viewed differently than a mild skin condition or a non-symptomatic condition such as high cholesterol.

We plan to examine two variables in this study: The type of disease information in the piece (information about the disease and its possible outcomes, versus information about the disease without outcomes, versus no information about the disease) and the format of the information (integrated with drug information versus separated). Some participants will see information about the disease that avoids discussion of disease outcomes the drug has not been shown to address, such as, "Diabetes is a disease in which blood sugar can vary uncontrollably, leading to uncomfortable episodes of high or low blood sugar." Other participants will see disease information that mentions consequences of the disease that go beyond the indication of the advertised product, such as, "Untreated diabetes can lead to blindness, amputation, and, in some cases, death." We will also examine the way in which the disease information is presented relative to the product claims in the piece by varying the format: Disease information mixed (integrated) with product claims versus disease information apart (separated) from product claims. This study is experimental in method and utilizes random assignment to conditions. Within medical condition, participants will be randomly assigned to see one version of the ad. Participants will be recruited from a general population sample to control for prior knowledge about disease outcomes.

[1] See 21 CFR 202.1(e)(6): "An advertisement for a prescription drug is false, lacking in fair balance, or otherwise misleading, or otherwise violative of section 502(n) of the act, among other reasons if it: (i) Contains a representation or suggestion, not approved or permitted for use in the labeling, that a drug is better, more effective, useful in a broader range of patients (as used in this section, *potients* means humans and in the case of veterinary drugs, other animals), safer, has fewer, or less incidence of, or less serious side effects or contraindications than has been demonstrated by substantial evidence or substantial clinical experience (as described in paragraphs (e)(4)(ii)(b) and (c) of this section) whether or not such representations are made by comparison with other drugs or treatments * * *."

[2] See Draft Guidance for Industry: "'Help-Seeking' and Other Disease Awareness Communications by or on Behalf of Drug and Device Firms" (p. 1), available at *http://www.fda.gov/downloods/Drugs/GuidonceComplionceRegulotoryInformotion/Guidonces/ucm070068.pdf.* Last accessed February 16, 2011.

[3] Lee-Wingate, S. and Y. Xie, "Consumer perceptions of product-claim versus help-seeking direct-to-consumer advertising," *Internotionol Journol of Phormoceutical ond Heolthcore Marketing*, 4(3), 232–246, 2010.

[4] Burke, R.R., W.S. DeSarbo, R.L. Oliver, and T.S. Robertson, "Deception by implication: An experimental investigation," *Journol of Consumer Reseorch*, 14(4), 483–494, 1988; Harris, R.J., "Comprehension of pragmatic implication in advertising," *Journol of Applied Psychology*, 62, 603–608, 1977; Jacoby, J., and W. Hoyer, "The comprehension and miscomprehension of print communications," New York: The Advertising Educational Foundation, 1987.

The preliminary design is included as follows:

TABLE 1—STUDY DESIGN

Medical condition	Disease outcome information	Format of disease information		Control (no disease information)
		Integrated	Separated	
Condition A	No Outcomes			
	Outcomes			
Condition B	No Outcomes			
	Outcomes			
Condition C	No Outcomes			
	Outcomes			

FDA estimates the burden of this collection of information as follows: We estimate the response burden to be 20 minutes in the pretests and the study, for a burden of 1,985 hours. This will be a one time (rather than annual) collection of information. The questionnaire is available upon request.

The response burden chart is listed as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN[5]

Activity	Number of respondents	Number of responses per respondent	Total annual respondents	Average burden per response	Total hours
Screener	6,750	1	6,750	0.03 (2 min.)	203
Pretests	900	1	900	0.33 (20 min.)	297
Study	4,500	1	4,500	0.33 (20 min.)	1,485
Total					1,985

Dated: August 11, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–20814 Filed 8–15–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0183]

Hung Ta Fan: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Hung Ta Fan for a period of 5 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Fan was convicted of a felony under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Fan was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of July 13, 2011 (30 days after receipt of the notice), Mr. Fan had not responded. Mr. Fan's failure to respond constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is effective August 16, 2011.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs (HFC–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–4640.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On August 4, 2010, the United States District Court for the Northern District of Illinois accepted Mr. Fan's guilty plea and entered judgment against him for the offense of conspiracy, in violation of 18 U.S.C. 371 and 2, for conspiring to defraud the United States and to violate 18 U.S.C. 542 (entry of Goods into the United States by means of false statements) and 18 U.S.C. 545 (importation contrary to law).

FDA's finding that debarment is appropriate is based on the felony conviction referenced herein for conduct relating to the importation into the United States of any food. The factual basis for this conviction is as follows: In or around March 2005 and continuing until in or around November 2006, in violation of 18 U.S.C. 371 and 2, Mr. Fan agreed and conspired with others to defraud the United States and

[5] There are no capital costs or operating and maintenance costs associated with this collection of information.

to commit offenses against the United States, to wit: Entry of Goods into the United States by means of False statements in violation of 18 U.S.C. 542 and Smuggled Goods into the United States in violation of 18 U.S.C. 545. Specifically, Mr. Fan owned and operated Blue Action Enterprise, Inc., 7 Tiger Enterprise, Inc., Honey World Enterprise, Inc., Kazak Food Corp., and Kashaka USA, Inc., through which he imported honey into the United States. Mr. Fan conspired to cause these companies to import, enter, and sell Chinese-origin honey into the United States and avoid payment of antidumping duties by falsely declaring to the U.S. Department of Homeland Security, Bureau of Customs and Border Protection that the imported honey originated from countries other than China, including India, South Korea, Taiwan, and Thailand, when in fact he knew that the honey originated in China. Mr. Fan's actions allowed him to avoid paying approximately $5,378,370 in antidumping duties to the United States.

Further, in or around January 2009, in violation of 18 U.S.C. 371 and 2, Mr. Fan agreed and conspired with others to enter into the commerce of the United States honey diluted and blended with approximately 20 to 30 percent artificial sugar, by means of false and fraudulent declarations and practices in violation of 18 U.S.C. 542, for the purpose of increasing his profits.

As a result of his conviction, on June 8, 2011, FDA sent Mr. Fan a notice by certified mail proposing to debar him for a period of 5 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act that Mr. Fan was convicted of a felony under Federal law for conduct relating to the importation into the United States of an article of food because he conspired to commit offenses related to the importation of Chinese honey into the United States, and a determination, after consideration of the factors set forth in section 306(c)(3) of the FD&C Act that Mr. Fan should be subject to the maximum possible period of debarment. The proposal also offered Mr. Fan an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Fan failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(b)(1)(C) of the FD&C Act, and under authority delegated to the Director (Staff Manual Guide 1410.35), finds that Mr. Hung Ta Fan has been convicted of a felony under Federal law for conduct relating to the importation of an article of food into the United States and that he is subject to the full period of debarment.

As a result of the foregoing finding, Mr. Fan is debarred for a period of 5 years from importing articles of food or offering such articles for import into the United States, effective (see **DATES**). Under section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Mr. Fan is a prohibited act.

Any application by Mr. Fan for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2011–N–0183 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 8, 2011.

Armando Zamora,

Acting Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2011–20780 Filed 8–15–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0514]

Draft Guidance for Industry and Food and Drug Administration Staff; Procedures for Handling Section 522 Postmarket Surveillance Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Procedures for Handling Section 522 Postmarket Surveillance Studies." This guidance document is intended to assist device manufacturers subject to a section 522 postmarket surveillance order imposed by FDA by providing an overview of section 522 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), procedural information on how to fulfill section 522 obligations, and recommendations on the format, content, and review of postmarket surveillance study submissions. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 14, 2011.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled "Procedures for Handling Section 522 Postmarket Surveillance Studies" to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mary Beth Ritchey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4115, Silver Spring, MD 20993–0002, 301– 96–6638.

SUPPLEMENTARY INFORMATION:

I. Background

Postmarket surveillance under section 522 of the FD&C Act (21 U.S.C. 360l) is one means by which FDA can obtain additional information when it is necessary to protect the public health or provide safety and/or effectiveness data for a device after it has been cleared or approved. The Food and Drug Administration Amendments Act of 2007 amended section 522 of the FD&C

Act to expand the situations in which FDA may order postmarket surveillance and allow longer surveillance periods in certain circumstances. This guidance document is intended to assist device manufacturers subject to a section 522 postmarket surveillance order by providing an overview of section 522 of the FD&C Act, procedural information on how to fulfill section 522 obligations, and recommendations on the format, content, and review of postmarket surveillance study submissions.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on "Procedures for Handling Section 522 Postmarket Surveillance Studies." It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*. To receive "Procedures for Handling Section 522 Postmarket Surveillance Studies" you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1754 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 822 have been approved under OMB control number 0910–0449.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 2011.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2011–20727 Filed 8–15–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

2011 Parenteral Drug Association/Food and Drug Administration Joint Public Conference; Quality and Compliance in Today's Regulatory Enforcement Environment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public conference.

The Food and Drug Administration (FDA), in cosponsorship with Parenteral Drug Association (PDA), is announcing a public conference entitled "Quality and Compliance in Today's Regulatory Enforcement Environment." The conference will span 2½ days and cover current issues affecting the industry as well as explore strategies and approaches for ensuring conformance with regulations to facilitate the development and continuous improvement of safe and effective medical products. The conference establishes a unique forum to discuss the foundations, emerging technologies and innovations in regulatory science, as well as the current quality and compliance areas of concerns. Meeting participants will hear from FDA and industry speakers about the requirements and best practices to consider while implementing robust quality systems in order to deliver the best quality product.

Date and Time: The public conference will be held on September 19, 2011, from 7 a.m. to 6 p.m.; September 20, 2011, from 7:30 a.m. to 6:15 p.m.; and September 21, 2011, from 7:30 a.m. to 12:15 p.m.

Location: The public conference will be held at the Renaissance Hotel, 999 Ninth St., NW., Washington, DC 20001, 202–898–9000, FAX: 202–289–0947.

Contact: Wanda Neal, Parenteral Drug Association, PDA Global Headquarters, Bethesda Towers, 4350 East West Hwy., suite 200, Bethesda, MD 20814, 301–656–5900, FAX: 301–986–1093, e-mail: info@pda.org.

Accommodations: Attendees are responsible for their own accommodations. To make reservations at the Renaissance Hotel at the reduced conference rate, contact the Renaissance Hotel (see *Location*)—cite the meeting code "PDA." Room rates are: Single: $288, plus 14.5% state and local taxes and Double: $288, plus 14.5 percent state and local taxes. Reservations can be made on a space and rate availability basis.

Registration: Attendees are encouraged to register at their earliest convenience. The PDA registration fees cover the cost of facilities, materials, and refreshments. Seats are limited; please submit your registration as soon as possible. Conference space will be filled in order of receipt of registration. Those accepted for the conference will receive confirmation. Registration will close after the conference is filled. Onsite registration will be available on a space available basis on each day of the public conference beginning at 7 a.m. on September 19, 2011. The cost of registration is as follows:

COST OF REGISTRATION

Affiliation	Fee
PDA Members	$1,895
NonMembers	2,144
PDA Member Government/Health Authority	700
NonMember Government/Health Authority	800
PDA Member Academic	700
NonMember Academic	780
PDA Member Students	280
NonMember Students	310

Please visit PDA's Web site: *http://www.pda.org/pdafda2011* to confirm the prevailing registration fees. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

If you need special accommodations due to a disability, please contact Wanda Neal (see *Contact*), at least 7 days in advance of the conference.

Registration Instructions: To register, please submit your name, affiliation, mailing address, telephone, fax number, and e-mail address, along with a check or money order payable to "PDA." Mail to: PDA, Global Headquarters, Bethesda Towers, 4350 East West Hwy., suite 200, Bethesda, MD 20814. To register via the

Internet, go to PDA's Web site: *http://www.pda.org/pdafda2011*.

The registrar will also accept payment by major credit cards (VISA/American Express/MasterCard only). For more information on the meeting, or for questions on registration, contact PDA (see *Contact*).

Transcripts: As soon as a transcript is available, it can be obtained in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: The PDA/FDA joint public conference offers the unique opportunity for participants to join FDA representatives and industry experts in face-to-face dialogues. Each year, FDA speakers provide updates on current efforts affecting the development of global regulatory strategies, while industry professionals from some of today's leading pharmaceutical companies present case studies on how they employ global strategies in their daily processes.

Through a series of sessions and meetings, the conference will provide participants with the opportunity to hear directly from FDA experts and representatives of global regulatory authorities on best practices, including:

- Accountability in a Global Environment—Enforcement and Supply Chain
- Office of International Programs 101 & Foreign Inspections
- International Conference on Harmonization Q11
- New Regulations—Status Update
- First Cycle Review
- Drug Safety
- Good Inspection Practices—Domestic
- Process Validation
- Emerging Regulations for Positron Emission Tomography
- FDA/Pharmaceutical Inspection Co-operation Scheme
- Standards
- International Compliance Update
- Good Manufacturing Practice Life Cycle
- Supply Chain

To help ensure the quality of FDA-regulated products, the workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393) which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by Government Agencies to small businesses.

Dated: August 11, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–20791 Filed 8–15–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cardiovascular Sciences

Dates: September 9, 2011

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yuanna Cheng, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301)435–1195, *Chengy5@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Social Science and Population Studies: Second Panel.

Dates: September 19, 2011.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Suzanne Ryan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 9, 2011.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–20829 Filed 8–15–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; T35 Training Grant in Pediatric Respiratory, Sleep, and Transfusion Medicine.

Date: September 7, 2011.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephanie L Constant, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784, *constantsl@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 10, 2011.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–20845 Filed 8–15–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Nome of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Musculoskeletal Rehabilitation.

Dote: September 12, 2011.

Time: 4 p.m. to 6 p.m.

Agendo: To review and evaluate grant applications.

Ploce: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contoct Person: Jean D. Sipe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, 301/435–1743, *sipej@csr.nih.gov.*

Nome of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Eye, Glaucoma and Cateracts.

Date: September 26–27, 2011.

Time: 8 a.m. to 5 p.m.

Agendo: To review and evaluate grant applications.

Ploce: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: James P. Harwood, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, 301–435–1256, *horwoodj@csr.nih.gov.*

Nome of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Chemotaxis Studies.

Dote: September 27, 2011.

Time: 8 a.m. to 6 p.m.

Agendo: To review and evaluate grant applications.

Ploce: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contoct Person: Raya Mandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, 301–402–8228, *rayom@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Microbial Pathogenesis.

Dote: September 27–28, 2011.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Ploce: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contoct Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pondyogo@moi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 10, 2011.

Anna P. Snouffer,

Deputy Director, Office of Federol Advisory Committee Policy.

[FR Doc. 2011–20849 Filed 8–15–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Maintenance of Child Health and Development Studies Name and Address Files.

Dote: August 23, 2011.

Time: 10:45 a.m. to 1 p.m.

Agendo: To review and evaluate contract proposals.

Ploce: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6680, *skondasa@moil.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 10, 2011.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–20848 Filed 8–15–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, P01 Application Reviews.

Date: October 5, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard A Rippe, PHD, Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Room 2109, Rockville, MD 20852, 301–443–8599, *rippera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians;

93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: August 9, 2011.

Anna P. Snouffer.

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–20830 Filed 8–15–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Notice To Announce the Award of an Urgent Single-Source Grant to Survivors of Torture International (SOTI) in San Diego, CA

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: The Office of Refugee Resettlement announces the award of an urgent single-source grant to Survivors of Torture International (SOTI) to provide comprehensive rehabilitative services to survivors of torture.

CFDA Number: 93.604

Statutory Authority: Awards announced in this notice are authorized by Section 412(c)(1)(A) of the Immigration and Nationality Act (INA)(8 U.S.C. 1522(c)(1)(A), as amended, and the Refugee Assistance Extension Act of 1986, Public Law 99–605, Nov 6, 1986, 100 Stat. 3449.

Amount of Award: $271,000.

Project Period: July 1, 2011 through June 30, 2012.

Summary: Notice is hereby given that an urgent single-source grant is awarded to Survivors of Torture, International (SOTI), San Diego, CA. The grant will support direct services to persons who have experienced trauma or torture prior to their arrival in the United States. The grant will serve San Diego County, which is the area that has received the greatest number of Iraqi refugee arrivals, as well as a high percentage of other refugees and asylum-seekers. The grantee, SOTI, will provide comprehensive rehabilitative services to Iraqi and other survivors of torture, who are in need of specialized services that will enable these survivors to regain their health and independence and rebuild productive lives. In addition to provision of direct services, SOTI will train other area service providers to more effectively serve this population. SOTI will also focus on sustaining collaborations among providers serving this population.

According to the Department of Homeland Security (DHS), in FY 2009, twenty-eight percent of the country's asylum-seekers came to California for resettlement. In 2010, a total of 3,663 refugees were resettled in San Diego. At least 159,550 refugees, asylees, and asylum-seekers in San Diego have come from areas where torture may be practiced. San Diego's numbers include an influx in Iraqi refugees, as one in four Iraqi refugees has resettled in California, with the vast majority resettling in San Diego.

SOTI is the only program in San Diego County that provides medical affidavits for torture survivors to use in claiming asylum. They have also reported an 84 percent increase in client intakes during fiscal years (FYs) 2009 and 2010. As a result, an urgent need exists for specialized services for individuals in San Diego who have suffered torture prior to their arrival in the United States.

SOTI is well positioned to provide medical, psychological, social, and legal services to Iraqis who have suffered torture and are relocated in the San Diego area. SOTI has developed a large network of pro bono service providers and possesses the clinical and programmatic expertise to serve survivors of torture.

For Further Information Contact: Ronald Munia, Director, Division of Community Resettlement, Office of Refugee Resettlement, 901 D Street, SW., Washington, DC 20047. *Telephone:* 202–401–4559. *E-mail: Ronald.Munia@acf.hhs.gov.*

Dated: July 29, 2011.

Eskinder Negash,

Director, Office of Refugee Resettlement.

[FR Doc. 2011–20714 Filed 8–15–11; 8:45 am]

BILLING CODE 4120–27–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–0705]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee (MERPAC) will meet on October 6, 2011 and October 7, 2011 in Washington, DC to discuss various issues related to the training and fitness of merchant marine personnel. This meeting will be open to the public.

DATES: MERPAC working groups will meet on October 6, 2011, from 8 a.m. until 4 p.m., and the full committee will meet on October 7, 2011, from 8 a.m. until 4 p.m. This meeting may adjourn early if all business is finished. Written comments to be distributed to committee members and placed on MERPAC's website are due September 23, 2011.

ADDRESSES: The Committee will meet in Room 2501 of Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. To facilitate public participation, we are inviting public comment on the issues to be considered by the committee and working groups. Written comments must be identified by Docket No. USCG–2011–0705 and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *Fax:* 202–372–1918.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov.*

Any requests to make oral presentations should be made in advance using one of the methods highlighted above. This notice may be viewed in our online docket, USCG–2011–0705, at *http://www.regulations.gov.* We request that members of the public who plan to attend this meeting notify Mr. Rogers Henderson at 202–372–1408 no later than October 3, 2011, so that he may notify building security officials.

Attendees will be required to provide a picture identification card in order to gain admittance to the Coast Guard Headquarters building.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gould, Alternate Designated Federal Officer (ADFO) to the Designated Federal Officer (DFO) of MERPAC, telephone 206–728–1368.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

MERPAC is an advisory committee authorized under section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. The Committee will act solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda of Meeting

Day 1

The agenda for the October 6, 2011, meeting is as follows:

(1) The full committee will meet briefly to discuss the working groups' business/task statements, which are listed under paragraph 2 below.

(2) Working groups addressing the following task statements, available for viewing at *http://homeport.uscg.mil/merpac* will meet to deliberate:

(a) Task Statement 58, concerning Stakeholder Communications during Merchant Mariner Licensing and Documentation Program (MLD) Restructuring and Centralization;

(b) Task Statement 71, concerning Review of USCG/IMO Operational Level Examination (3rd Mate/2nd Mate and 3rd/2nd Assistant Engineer) Topics and Questions and Alignment with the STCW Code;

(c) Task Statement 75, concerning Review of the Supplemental Notice of Proposed Rulemaking Concerning the Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements;

(d) Task Statement 76, concerning Review of Performance Measures (Assessment Criteria); and

(e) Task Statement 77, concerning Development of Performance Measures (Assessment Criteria).

(3) If time allows, working groups addressing the following task statements, available for viewing at *http://homeport.uscg.mil/merpac* may meet to deliberate:

(a) Task Statement 30, concerning Utilizing Military Education, Training and Assessment for STCW (the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (1978), as amended) and U.S. Coast Guard Certifications;

(b) Task Statement 73, concerning Development of Training Guidance for Engineers Serving on Near-Coastal Vessels; and

(c) Task Statement 74, concerning Merchant Mariner Credential (MMC) Components.

(4) The Coast Guard may form new working groups to address any additional issues emanating from the existing task statements.

(5) Reports of working groups. At the end of the day, the working groups will make a report to the full committee on what was accomplished in their meetings. The full committee will not take action on these reports on this date. Any official action taken as a result of this working group meeting will be taken on day 2 of the meeting.

(6) Adjournment of meeting.

Day 2

The agenda for the October 7, 2011, Committee meeting is as follows:

(1) Introduction;

(2) Remarks from Coast Guard Leadership, Mr. Jeff Lantz;

(3) Introduction of the new members;

(4) Roll call of committee members and determination of a quorum;

(5) DFO announcements;

(6) Reports from the following working groups;

(a) Task Statement 30, concerning Utilizing Military Education, Training and Assessment for STCW and U.S. Coast Guard Certifications;

(b) Task Statement 58, concerning Stakeholder Communications during MLD Program Restructuring and Centralization;

(c) Task Statement 71, concerning Review of USCG/IMO Operational Level Examination (3rd Mate/2nd Mate and 3rd/2nd Assistant Engineer) Topics and Questions and Alignment with the STCW Code;

(d) Task Statement 73, concerning Development of Training Guidance for Engineers Serving on Near-Coastal Vessels;

(e) Task Statement 74, concerning Merchant Mariner Credential (MMC) Components;

(f) Task Statement 75, concerning Review of the Supplemental Notice of Proposed Rulemaking Concerning the Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements;

(g) Task Statement 76, concerning Review of Performance Measures (Assessment Criteria); and

(h) Task Statement 77, concerning Development of Performance Measures (Assessment Criteria).

(7) Other items which will be discussed:

(a) Report on National Maritime Center (NMC) activities from NMC Commanding Officer;

(b) Reporting on IMO/ILO related activities; and

(c) Briefings concerning on-going Coast Guard projects related to personnel in the U.S. Merchant Marine.

(8) Period for public comments/ presentations.

(9) Discussion of working group recommendations. The committee will review the information presented on each issue, deliberate on any recommendations presented by the working groups and approve/formulate recommendations for the Department's consideration. Official action on these recommendations may be taken on this date.

(10) Closing remarks/plans for next meeting.

(11) Adjournment of meeting.

Procedural: This meeting will be open to the public. Please note that the meeting may adjourn early if all business is finished.

A copy of all meeting documentation is available at the *https://www.fido.gov* Web site or by contacting Mark Gould. Once you have accessed the MERPAC Committee page, click on the meetings tab and then the "View" button for the meeting dated 10/6/2011 to access the information for this meeting. Minutes will be available 90 days after this meeting. Both minutes and documents applicable for this meeting can also be found at an alternative site using the following Web address: *https://homeport.uscg.mil* and use these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the event key.

Public participation: To facilitate public participation, we are inviting public comment on the issues to be considered by the committee and working groups. Written comments must be identified by Docket No.

USCG–2011–0705 and submitted by one of the methods specified in **ADDRESSES**. Written comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided. Anyone can search the electronic form of comments received into the docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For access to the docket to read background documents or comments received in response to this notice, go to *http://www.regulations.gov*. An opportunity for public oral comment will be held during the MERPAC public meeting on October 7, 2011. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment period may end before the prescribed ending time indicated following the last call for comments. Contact Mark Gould at *Mark.C.Gould@uscg.mil* to register as a speaker.

Information on services for individuals with disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the ADFO as soon as possible.

Dated: August 10, 2011.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2011–20826 Filed 8–15–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–0736]

Merchant Marine Personnel Advisory Committee: Intercessional Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal advisory committee working group meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee (MERPAC) will conduct an intercessional meeting so that a working group may discuss Task Statement 75, entitled "Review of the Supplemental Notice of Proposed Rulemaking Concerning the Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements." This meeting will be open to the public.

DATES: A MERPAC work group will meet on September 8, 2011, 2011, from 8 a.m. until 5 p.m., and on September 9, 2011, from 8 a.m. until 4 p.m. Please note that the meeting may adjourn early if all business is finished. Written comments to be distributed to work group members and placed on MERPAC's Web site are due by August 25, 2011.

ADDRESSES: The work group will meet in Room 6103 of Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. We request that members of the public who plan to attend this meeting notify Mr. Rogers Henderson at 202–372–1408 no later than September 1, 2011, so that building security officials can be notified. Attendees will be required to provide a picture identification card in order to gain admittance to the Coast Guard Headquarters building.

For information on facilities or services for individuals with disabilities or to request special assistance, contact Mr. Rogers Henderson at 202–372–1408 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the work group as listed in the "Agenda" section below. Written comments must be identified by Docket No. USCG–2011–0736 and may be submitted by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- Fax: 202–372–1918.
- Mail: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov*.

This notice may be viewed in our online docket, USCG–2011–0736, at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gould, Alternate Designated Federal Officer (ADFO) to the Designated Federal Officer (DFO) of MERPAC, telephone 206–728–1368. If you have any questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463).

MERPAC is an advisory committee authorized under section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. The Committee will act solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. Merchant Marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda

Day 1

The agenda for September 8, 2011, work group meeting is as follows:

(1) Discuss task objectives described in summary paragraph above;

(2) Public comment period;

(3) Discuss and prepare proposed recommendations for the full committee to consider concerning Task Statement 75, entitled, "Review of the Supplemental Notice of Proposed Rulemaking Concerning the Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements;" and

(4) Adjournment of meeting.

Day 2

The agenda for the September 9, 2011, work group meeting is as follows:

(1) Continue discussion on proposed recommendations;

(2) Public comment period;

(3) Prepare final recommendations for the full committee to consider concerning Task Statement 75, entitled, "Review of the Supplemental Notice of

Proposed Rulemaking Concerning the Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements;" and

(4) Adjournment of meeting.

Procedural: A copy of all meeting documentation is available at the *https://www.fido.gov* Web site or by contacting Mark Gould. Once you have accessed the MERPAC Committee page, click on the meetings tab and then the "View" button for the meeting dated September 8–9, 2011 to access the information for this meeting. Minutes will be available 90 days after this meeting. Both minutes and documents applicable for this meeting can also be found at an alternative site using the following Web address: *https://homeport.uscg.mil* and use these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the event key.

A public oral comment period will be held during the work group meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment period may end before the prescribed ending time indicated following the last call for comments. Contact Mark Gould as indicated above to register as a speaker.

Dated: August 10, 2011.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2011–20804 Filed 8–15–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1981–DR; Docket ID FEMA–2011–0001]

North Dakota; Amendment No. 8 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of North Dakota (FEMA–1981–DR), dated May 10, 2011, and related determinations.

DATES: *Effective Date:* August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Dakota is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 10, 2011.

Sioux County and the Standing Rock Indian Reservation for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–20794 Filed 8–15–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1950–DR; Docket ID FEMA–2011–0001]

Arizona; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arizona (FEMA–1950–DR), dated December 21, 2010, and related determinations.

DATES: *Effective Date:* August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 4, 2011, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), in a letter to W. Craig Fugate, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in the Sovereign Tribal Nation of the Havasupai Tribe of Arizona resulting from severe storms and flooding during the period of October 3–6, 2010, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act").

Therefore, I amend my declaration of December 21, 2010, to authorize Federal funds for all categories of Public Assistance at 90 percent of total eligible costs for the Sovereign Tribal Nation of the Havasupai Tribe.

This adjustment to the local cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under the law. The Robert T. Stafford Disaster Relief and Emergency Assistance Act specifically prohibits a similar adjustment for funds provided for Other Needs Assistance (Section 408), and the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–20799 Filed 8–15–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4009–DR; Docket ID FEMA–2011–0001]

Minnesota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Minnesota (FEMA–4009–DR), dated July 28, 2011, and related determinations.

DATES: *Effective Date:* August 10, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Minnesota is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of July 28, 2011.

Kanabec County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–20800 Filed 8–15–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1984–DR; Docket ID FEMA–2011–0001]

South Dakota; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Dakota (FEMA–1984–DR), dated May 13, 2011, and related determinations.

DATES: *Effective Date:* August 10, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Dakota is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 13, 2011.

Brule, Gregory, and Lyman Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–20803 Filed 8–15–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket ID No. BOEM–2011–0068]

Information Collection Activity: Production Safety Systems, Revision of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), BOEMRE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under "Oil and Gas Production Safety Systems" (OMB No. 1010–0059).

DATES: Submit written comments by October 17, 2011.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to *http://www.regulations.gov.* In the entry titled Enter Keyword or ID, enter BOEM–2011–0068 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. BOEMRE will post all comments.
- E-mail *cheryl.blundon@boemre.gov.* Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ICR 1010–0059 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, subpart H, Oil and Gas Production Safety Systems.

OMB Control Number: 1010–0059.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the

OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

The OCS Lands Act at 43 U.S.C. 1332(6) states that "operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and Office of Management and Budget (OMB) Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's (DOI) implementing policy, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) is required to charge the full cost for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. Facility Production Safety System Applications are subject to cost recovery, and BOEMRE regulations specify filing fees for these applications.

This notice concerns the reporting and recordkeeping elements of 30 CFR part 250, subpart H, Oil and Gas Production Safety Systems, and related Notices to Lessees and Operators (NTLs) that clarify and provide additional guidance on some aspects of the regulations.

BOEMRE uses the information submitted under subpart H to evaluate equipment and/or procedures that lessees propose to use during production operations, including evaluation of requests for departures or use of alternative procedures. Information submitted is also used to verify the no-flow condition of wells to continue the waiver of requirements to install valves capable of preventing backflow. BOEMRE inspectors review the records maintained to verify compliance with testing and minimum safety requirements.

The Gulf of Mexico OCS Region (GOMR) has a policy regarding approval of requests to use a chemical-only fire prevention and control system in lieu of a water system. BOEMRE may require additional information be submitted to maintain approval. The information is used to determine if the chemical-only system provides the equivalent protection of a water system for the egress of personnel should a fire occur.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.197, "Data and information to be made available to the public or for limited inspection," and 30 CFR part 252, "OCS Oil and Gas Information Program." No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion or annual.

Description of Respondents: Potential respondents comprise Federal oil, gas, or sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 47,021 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart H and NTL(s)	Reporting and recordkeeping requirement	Hour burden
		Non-hour cost burdens
	Submittals	
800; 801; 802; 803	Submit application, and all required/supporting information, for a production safety system with >125 components.	8
		$5,030 per application; $13,238 per offshore visit; $6,884 per shipyard visit.
	25–125 components	7
		$1,218 per application; $8,313 per offshore visit; $4,766 per shipyard visit.
	<25 components	6
		$604 per application.
	Submit modification to application for production safety system with >125 components.	4
		$561 per application.
	25–125 components	3.5
		$201 per application.
	<25 components	3
		$85 per application.

Citation 30 CFR 250 subpart H and NTL(s)	Reporting and recordkeeping requirement	Hour burden
		Non-hour cost burdens
801(a)	Submit application for a determination that a well is incapable of natural flow.	3
803(b)(2)	Submit required documentation for unbonded flexible pipe	Burden is covered by the application requirement in § 250.802(e).
803(b)(8); related NTL	Request approval to use chemical only fire prevention and control system in lieu of a water system.	8
807	Submit detailed info regarding installing SSVs in an HPHT environment with your APD, APM, DWOP, etc. Burden is covered under 1010–0141.	0
General		
801(h)(2); 803(c)	Identify well with sign on wellhead that subsurface safety device is removed; flag safety devices that are out of service. Usual/customary safety procedure for removing or identifying out-of-service safety devices.	0
802(e), (f), (h)(3); 803(b)(2)	Specific alternate approval requests requiring District Manager approval. Burden covered under 1010–0114.	0
803(b)(8)(iv); (v)	Post diagram of firefighting system; furnish evidence firefighting system suitable for operations in subfreezing climates.	2
804(a)(12); 800	Notify BOEMRE prior to production when ready to conduct pre-production test and inspection; upon commencement of production for a complete inspection.	¾
806(c)	Request evaluation and approval of other quality assurance programs covering manufacture of SPPE.	2
Recordkeeping		
801(h)(2); 802(e); 804(b)	Maintain records for 2 years on subsurface and surface safety devices to include approved design & installation features, testing, repair, removal, etc; make records available to BOEMRE.	20
803(b)(1)(iii), (2)(i)	Maintain pressure-recorder charts	17
803(b)(4)(iii)	Maintain schematic of the emergency shutdown (ESD) which indicates the control functions of all safety devices.	9
803(b)(11)	Maintain records of wells that have erosion-control programs and results for 2 years; make available to BOEMRE upon request.	6

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: The currently OMB approved non-hour cost burdens total $482,309. We have identified nine non-hour cost burdens for this collection. These non-hour cost burdens consist of service fees which are determined by the number of components involved in the review and approval process; along with the cost of the offshore and/or shipyard visits under § 250.802(e). We have not identified any other non-hour cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the non-hour cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

BOEMRE Information Collection Clearance Officer: Arlene Bajusz (703) 787–1025.

Dated: July 20, 2011.

Doug Slitor,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2011–20562 Filed 8–15–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2011–N158; 80221–1113–0000–F5]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing these permits.

DATES: Comments on these permit applications must be received on or before September 15, 2011.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Endangered Species Program Manager, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicants

Permit No. TE–797267

Applicant: H.T. Harvey & Associates, Los Gatos, California

The applicant requests a permit to take (capture, handle, passive integrated transponder [PIT] tag, radio collar, and release) the giant kangaroo rat (*Dipodomys ingens*) in conjunction with surveys, research, and population monitoring activities in San Luis County, California, for the purpose of enhancing the species' survival.

Permit No. TE–844028

Applicant: A.A. Rich and Associates, San Enselmo, California

The applicant requests an amendment to a permit to take (survey, electrofish, net, capture, and release) the Pahranagat roundtail chub (*Gila robusta jordani*) in conjunction with surveys and population monitoring activities throughout the range of the species in Lincoln County, Nevada, for the purpose of enhancing the species' survival.

Permit No. TE–221290

Applicant: Lee Ripma, San Diego, California

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE–815144

Applicant: Rosemary Thompson, Santa Barbara, California

The applicant requests an amendment to a permit to take (capture, handle, release, and collect tail tissue and voucher specimens) the California tiger salamander (*Ambystoma californiense*) and take (capture, handle, and release) the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) in conjunction with survey activities and population studies throughout the range of the species for the salamander and within the Santa Clara River Drainage for the stickleback in California for the purpose of enhancing the species' survival.

Permit No. TE–48149A

Applicant: Tammy C. Lim, Oakland, California

The applicant requests a permit to take (survey, capture, handle, mark, take biological samples, transport, relocate, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in conjunction with survey, research, and habitat enhancement activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–018909

Applicant: Kelly M. Rios, Brea, California

The applicant requests an amendment to a permit to take (capture, handle, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–48170A

Applicant: Lisa Ann Gadsby, Encinitas, California

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–48210A

Applicant: Becky Rozumowicz, Orangevale, California

The applicant requests a permit to take (survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) and take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE–48214A

Applicant: Tracy K. Bain, San Francisco, California

The applicant requests a permit to take (survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with surveys and behavioral research activities in Sonoma County, California, for the purpose of enhancing the species' survival.

Permit No. TE–142435

Applicant: Debra M. Shier, Topanga, California

The applicant requests a permit to take (survey, capture, handle, mark, tag, obtain genetic samples, attach radio-telemetry devices, hold in captivity, transport, translocate, and release to the wild) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) and the giant kangaroo rat (*Dipodomys ingens*) in conjunction with survey and research activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Michael Long,

Acting Regional Director, Region 8, Sacramento, California.

[FR Doc. 2011–20818 Filed 8–15–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[USGS GX11GK009970000]

Proposed Information Collection; Comment Request for the Landslide Report: Did You See It?

AGENCY: United States Geological Survey (USGS), Interior.

ACTION: Notice; request for comments.

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection request (ICR) for the USGS Landslide Hazards Program's Landslide Report: Did You See It? As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: You must submit comments on or before September 15, 2011.

ADDRESSES: Please submit written comments on this ICR to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via e-mail to *oira_docket@omb.eop.gov* or fax at 202–395–5806; and reference Information Collection 1028–NEW (DYSI) in the subject line. Please also submit a copy of your comments to the USGS, Information Collection Office, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, VA 20192. Please reference Information Collection 1028–NEW (DYSI) in the subject line.

FOR FURTHER INFORMATION CONTACT: Rex Baum by mail at U.S. Geological Survey, Denver Federal Center, Box 25046, M.S. 966, Denver, CO 80225–0046, or by telephone at 303–273–8610. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (Information Collection Review, Currently under Review).

SUPPLEMENTARY INFORMATION:

I. Abstract

The objective of this collection is to build better inventories of landslides through citizen participation. This project will make it possible for the public to report their observations of landslides on a USGS-based Web site. The information gathered through the on-line database will be used to classify the landslides and damage, as well as provide information to scientists about the location, time, speed, and size of the landslides. The USGS Landslide Hazards Program will develop an interactive Web site for public reporting of landslides that will be patterned after the USGS Earthquake Program's successful "Did you feel it?" Web site for collecting reports of earthquakes.

II. Data

OMB Control Number: 1028–NEW.

Title: Landslide Report: Did You See It?

Type of Request: New.

Affected Public: General public.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion, after a landslide.

Estimated Annual Number of Respondents: 2,000.

Estimated Total Annual Burden Hours: 167.

III. Request for Comments

On December 9, 2010 we published a **Federal Register** notice (75 FR 76752) announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on February 18, 2011. We did not receive any comments in response to that notice.

We again invite comments concerning this ICR on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: August 10, 2011.

Peter T. Lyttle,

Coordinator, National Cooperative Geologic Mapping and Landslide Hazards Programs.

[FR Doc. 2011–20823 Filed 8–15–11; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX11EB00A184000]

Agency Information Collections Activities; The Pecora Award; Application and Nomination Process

AGENCY: United States Geological Survey (USGS), Interior.

ACTION: Notice; request for comments for a new information collection.

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. After public review, we will submit an information request to the Office of Management and Budget for review and consideration for approval. Please note that we may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments to this IC, we must receive them on or before October 17, 2011.

ADDRESSES: Send your comments and suggestions on this IC to the USGS Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 807, Reston, VA 20192 (mail); 703–648–7197 (phone); 703–648–6853 (fax); or *cbartlett@usgs.gov* (e-mail). Please reference Information Collection 1028–NEW Pecora Award in the subject line.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, please contact the U.S. Geological Survey, Tina Pruett, MS–517, 12201 Sunrise Valley Dr., Reston, VA 20192 (mail), by telephone (703)-648–4585, or *tpruett@usgs.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Abstract

The William T. Pecora Award is presented annually to individuals or groups that make outstanding contributions toward understanding the earth by means of remote sensing. The award is sponsored jointly by the Department of the Interior (DOI) and the National Aeronautics and Space Administration (NASA).

In 1974 the Pecora award was established in honor of Dr. William T. Pecora, former Director of the U.S. Geological Survey, Under Secretary, Department of the Interior and a motivating force behind the establishment of a program for civil remote sensing of the earth from space. The purpose of the award is to recognize individuals or groups working in the field of remote sensing of the earth. National and international nominations are accepted from the public and private sector individuals, teams, organizations, and professional societies.

Nomination packages include three sections: (A) Cover Sheet, (B) Summary Statement, and (C) Supplemental Materials. The cover sheet includes professional contact information. The Summary Statement is limited to two pages and describes the nominee's achievements in the scientific and technical remote sensing community, contributions leading to successful practical applications of remote sensing, and/or major breakthroughs in remote sensing science or technology. Nominations may include up to 10 pages of supplemental information such as resume, publications list, and/or letters of endorsement.

The award consists of a citation and plaque, which are presented to the recipient at an appropriate public forum by the Secretary of the Interior and the NASA Administrator or their representatives. The name of the recipient is also inscribed on permanent plaques, which are displayed by the sponsoring agencies.

II. Data

OMB Control Number: 1028–NEW.

Title: The Pecora Award; Application and Nomination Process.

Type of Request: This is a new collection.

Affected Public: Individuals or households; businesses and other academic and non-profit institutions; State, local and tribal governments.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Estimated Annual Number of Respondents: 20.

Estimated Total Annual Responses: 20.

Estimated Time per Response: 10 hours.

Estimated Total Annual Burden Hours: 200.

III. Request for Comments

We invite comments concerning this IC on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publicly available at anytime. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that will be done.

Dated: August 9, 2011.

Bruce Quirk,

Program Coordinator, Land Remote Sensing Program, U.S. Geological Survey.

[FR Doc. 2011–20821 Filed 8–15–11; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM922000–11–L13200000–EL0000; OKNM 126630]

Notice of Invitation To Participate; Coal Exploration License Application OKNM 126630, Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to the Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Vale Exploration USA, Inc., on a pro rata cost-sharing basis, in a program for the exploration of coal deposits owned by the United States of America in lands located in LeFlore and Haskell Counties, Oklahoma.

DATES: This notice of invitation will be published in the *Poteau Daily News* newspaper once each week for 2 consecutive weeks beginning the week of August 22, 2011 and in the **Federal Register.** Any party electing to participate in this exploration program must send written notice referencing the Exploration License Application serial number OKNM 126630 to both the BLM and Vale Exploration USA, Inc., as provided in the **ADDRESSES** section

below no later than 30 days after publication of this notice in the **Federal Register** or 10 calendar days after the last publication of this notice in the *Poteau Daily News* newspaper, whichever is later.

ADDRESSES: Copies of the proposed exploration plan (case file OKNM 126630) are available for review from 9 a.m. to 4 p.m., Monday through Friday: BLM New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico; and BLM, Oklahoma Field Office, 7906 East 33rd Street Suite 101, Tulsa, Oklahoma.

The written notice should be sent to the following addresses: State Director, BLM New Mexico State Office, P. O. Box 27115, Santa Fe, New Mexico 87502–0115 and Vale Exploration USA, Inc., 1209 Orange Street, Wilmington, Delaware 19801.

FOR FURTHER INFORMATION CONTACT: Ida T. Viarreal at 505–954–2163, *iviarrea@blm.gov* or Powell King (505) 954–2160, *pking@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individuals during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose of the exploration program is to gain structural and quality information about the coal. The BLM regulations at 43 CFR part 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register**. The Federal coal resources included in the exploration license application are located in the following described lands in LeFlore and Haskell Counties, Oklahoma, and are described as follows:

Hartford Exploration Area, LeFlore County, Oklahoma

Indian Meridian
T. 6 N., R. 25 E.,
Sec. 24, E½, SW¼, and SE¼NW¼;
Sec. 25, All;
Sec. 36, All, less Lot 1.
T. 6 N., R. 26 E.,
Sec. 14, All;
Sec. 15, All;
Sec. 16, All;
Sec. 17, NE¼NE¼, S½NE¼, S½, and SE¼ NW¼;
Sec. 19, lots 1–4, inclusive, E½, and E½W½;
Sec. 20, All;
Sec. 21, All;
Sec. 22, All;
Sec. 23, All;
Sec. 25, All;
Sec. 28, N½N½, S½NW¼, and NW¼SW¼;
Sec. 29, All;
Sec. 30, lots 1–4, inclusive, E½, and E½W½;
Sec. 31, lots 1–4, inclusive, E½, and E½W½;
Sec. 32, All.
T. 6 N., R. 27 E.,
Sec. 7, S½;
Sec. 8, S½;
Sec. 9, S½;
Sec. 10, lots 3–4, inclusive, and W½SW¼;
Sec. 15, lots 1–4, inclusive, and W½W½;
Sec. 16, All;
Sec. 17, All;
Sec. 18, All;
Sec. 19, All;
Sec. 20, All;
Sec. 21, All;
Sec. 22, lots 1–4, inclusive, and W½W½.

Containing 16,313.44 acres, more or less.

Lafayette Exploration Area, Haskell County, Oklahoma

Indian Meridian
T. 8 N., R. 21 E.,
Sec. 22, S½SE¼;
Sec. 23, S½NE¼, and S½;
Sec. 24, SW¼, SW¼NW¼, and SW¼SE¼;
Sec. 25, All;
Sec. 26, All;
Sec. 27, E½, W½SW¼, E½W½, and SW¼NW¼;
Sec. 28, E½SE¼, and SW¼SE¼;
Sec. 33, E½W½, and E½;
Sec. 34, All;
Sec. 35, All;
Sec. 36, NE¼, N½SE¼, and W½.
T. 8 N., R. 22 E.,
Sec. 28, All;
Sec. 29, E½, S½SW¼, less lot 1;
Sec. 30, lots 2–4, inclusive, SE¼SW¼, and S½SE¼;
Sec. 31, lots 1–2, inclusive, NE¼, and E½NW¼;
Sec. 32, N½N½, and S½NW¼;
Sec. 33, N½NW¼.

Containing 6,927.92 acres, more or less.

The proposed exploration program is fully described in, and will be conducted pursuant to, an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Michael Tupper,

Acting Deputy State Director, Minerals.

[FR Doc. 2011–20781 Filed 8–15–11; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM922000 L13200000.EL0000; NMNM 124051]

Notice of Invitation To Participate; Coal Exploration License Application NMNM–124051, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are invited to participate with the BHP–Billiton/San Juan Coal Company, on a pro rata cost-sharing basis, in a program for the exploration of coal deposits owned by the United States of America in lands located in San Juan County, New Mexico.

DATES: This notice of invitation will be published in *The (Farmington) Daily Times* newspaper once each week for 2 consecutive weeks beginning the week of August 22, 2011 and in the **Federal Register.** Any party electing to participate in this exploration program must send written notice referencing the Exploration License Application serial number NMNM 124051 to both the BLM and BHP–Billiton/San Juan Coal Company as provided in the **ADDRESSES** section below no later than 30 days after publication of this notice in the **Federal Register** or 10 calendar days after the last publication of this notice in *The Daily Times* newspaper, whichever is later.

ADDRESSES: Copies of the proposed exploration plan (case file number NMNM–124051) are available for review from 9 a.m. to 4 p.m., Monday through Friday: BLM, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico; and BLM, Farmington Field Office, 1235 La Plata Highway, Suite A, Farmington, New Mexico. The written notice should be sent to the following addresses: State Director, BLM, New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502–0115 and BHP–Billiton/San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421.

FOR FURTHER INFORMATION CONTACT: Elizabeth Rivera at (505) 954–2162, *lrivera@blm.gov;* or Powell King at (505) 954–2160, *pking@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose of the exploration program is to gain structural and quality information about the coal. The BLM regulations at 43 CFR 3410 require the publication of

an invitation to participate in the coal exploration in the **Federal Register.** The Federal coal resources included in the exploration license application are located in the following described lands in San Juan County, New Mexico, and are described as follows:

NM Principal Meridian

T. 30 N., R. 14 W.,
Sec. 7, All;
Sec. 8, All.

Containing 1,280 acres, more or less.

The proposed exploration program is fully described in, and will be conducted pursuant to, an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Michael Tupper,

Acting Deputy State Director, Minerals.

[FR Doc. 2011–20810 Filed 8–15–11; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO620000.L18200000.XH0000]

Notice of Reopening the Call for Nominations for Certain Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations for certain Bureau of Land Management (BLM) Resource Advisory Councils (RAC) that have member terms expiring this year. The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.

DATES: All nominations must be received no later than September 15, 2011.

ADDRESSES: The address of BLM state offices accepting nominations is listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Allison Sandoval, Bureau of Land Management, Correspondence, International, and Advisory Committee Office, 1849 C Street, NW., MS–MIB 5070, Washington, DC 20240; (202) 208–4294.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1739) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784 and include the following three membership categories:

Category One—Holders of Federal grazing permits and representatives of organizations associated with energy and mineral development, timber industry, transportation or rights-of-way, developed outdoor recreation, off-highway vehicle use, and commercial recreation;

Category Two—Representatives of nationally or regionally recognized environmental organizations; archaeological and historic organizations, dispersed recreation activities, and wild horse and burro organizations; and

Category Three—Representatives of state, county, or local elected office; employees of a state agency responsible for management of natural resources; representatives of Indian tribes within or adjacent to the area for which the council is organized; representatives of academia who are employed in natural sciences; and the public-at-large.

Individuals may nominate themselves or others. Nominees must be residents of the state in which the RAC has jurisdiction. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making. The Obama Administration prohibits individuals who are currently federally-registered lobbyists to serve on all FACA and non-FACA boards, committees, or councils. The following must accompany all nominations:

— Letters of reference from represented interests or organizations;
— A completed background information nomination form; and
— Any other information that addresses the nominee's qualifications.

Simultaneously with this notice, BLM state offices will issue press releases providing additional information for submitting nominations, with specifics about the number and categories of member positions available for each RAC in the state. Nominations for RACs should be sent to the appropriate BLM offices listed below:

California

Northwestern California RAC

Jeff Fontana, Eagle Lake Field Office, BLM, 2950 Riverside Drive, Susanville, California 96130, (530) 252–5332.

Oregon/Washington

Eastern Washington RAC; and Southeast Oregon RAC

Pam Robbins, Oregon State Office, BLM, 333 SW First Avenue, P.O. Box 2965, Portland, Oregon 97204, (503) 808–6306.

Utah

Utah RAC

Sherry Foot, Utah State Office, BLM, 440 West 200 South, Suite 500, P.O. Box 45155, Salt Lake City, Utah 84101, (801) 539–4195.

Certification Statement: I hereby certify that the BLM Resource Advisory Councils are necessary and in the public interest in connection with the Secretary's responsibilities to manage the lands, resources, and facilities administered by the BLM.

Mike Pool,

Deputy Director.

[FR Doc. 2011–20784 Filed 8–15–11; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–457–A–D (Third Review)]

Heavy Forged Hand Tools From China

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty orders on heavy forged hand tools from China would be likely to lead to continuation or recurrence of material injury to industries in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on January 3, 2011 (76 F.R. 168) and determined on April 8, 2011 that it would conduct expedited reviews (76 FR 31631, June 1, 2011).

The Commission transmitted its determinations in these reviews to the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Secretary of Commerce on August 10, 2011. The views of the Commission are contained in USITC Publication 4250 (August 2011), entitled *Heavy Forged Hand Tools From China: Investigation Nos. 731–TA–457–A–D (Third Review).*

Issued: August 10, 2011.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–20731 Filed 8–15–11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Devices for Improving Uniformity Used in a Backlight Module and Products Containing the Same,* DN 2839; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Industrial Technology Research Institute and ITRI International on August 10, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain devices for improving uniformity used in a backlight module and products containing the same. The complaint names as respondents LG Corporation of South Korea; LG Electronics, Inc. of South Korea; and LG Electronics, U.S.A., Inc. of NJ.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2839") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: August 10, 2011.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–20762 Filed 8–15–11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–318, 731–TA–538 and 561; Third Review]

Sulfanilic Acid From China and India

Scheduling of expedited five-year reviews concerning the countervailing duty order and antidumping duty orders on sulfanilic acid from China and India.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C.1675(c)(3)) (the Act) to determine whether revocation of the countervailing duty order and antidumping duty orders on sulfanilic acid from China and India would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general

application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* July 14, 2011.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On July 5, 2011, the Commission determined that the domestic interested party group response to its notice of institution (76 FR 18248, April 1, 2011) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on August 26, 2011, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before August 31, 2011 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by August 31, 2011. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination. The Commission has determined to exercise its authority to extend the reviews period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 11, 2011.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–20790 Filed 8–15–11; 8:45 am]

BILLING CODE P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the response submitted by Nation Ford Chemical Co. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Under the Clean Water Act

Notice is hereby given that on August 10, 2011 a proposed Consent Decree in *United States and the State of West Virginia* v. *City of Elkins,* Civil Action No. 2:11cv61, was lodged with the United States District Court for the Northern District of West Virginia. In this action the United States and the State seeks civil penalties and injunctive relief for violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, in connection with the City of Elkins' operation of its municipal wastewater and sewer system.

Under the proposed Consent Decree, Elkins is required to: (1) Implement injunctive measures through a long term control plan ("LTCP") to eliminate dry weather overflows ("DWOs") and reduce combined sewer overflows ("CSOs") by March 2023 by completing sewer separation projects and upgrades at an approximate cost of $4.2 million; (2) pay the United States a civil penalty of $32,400; (3) pay the State a civil penalty of $32,400 and (3) establish and operate a yard waste pick-up and recycling program for Elkins' residents as a Supplemental Environmental Project ("SEP").

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and West Virginia Department of Environmental Protection* v. *City of Elkins,* D.J. Ref. 90–5–1–1–09043. The proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of West Virginia, Elkins Branch, Federal Building, 300 Third Street, Suite 300, Elkins, WV and at the U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, PA 19103.

During the public comment period, the proposed Consent Decree may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC

20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $17.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–20755 Filed 8–15–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act and Chapter 11 of the United States Bankruptcy Code

Notice is hereby given that on August 11, 2011, a proposed Settlement Agreement ("Agreement") in *In re Barzel Industries Inc. et al.*, Case No. 09–13204 (CSS), was lodged with the United States Bankruptcy Court for the District of Delaware. The Agreement was entered into by the United States, on behalf of the United States Environmental Protection Agency ("EPA") and Barzel Industries Inc. and certain of its affiliates (the "Debtors"). The Agreement relates to the liability of American Steel and Aluminum Corporation, one of the Debtors, under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 *et seq.* ("CERCLA"), at the Peterson/Puritan Superfund Site, Second Operable Unit, located in Lincoln and Cumberland, Rhode Island (the "Site").

The Agreement provides that EPA will have an allowed Class IV General Unsecured Claim under the Debtors' Plan of Liquidation in the amount of $260,828 ("EPA Allowed Claim"). The Agreement also provides that if insurance proceeds are recovered by the Debtors on account of the EPA Allowed Claim, the Debtors shall pay the amount of such proceeds to EPA on a dollar-for-dollar basis. Under the Agreement, EPA has agreed not to bring a civil action or take administrative action against the Debtors pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973, relating to the Site.

For a period of 15 days from the date of this publication, the Department of Justice will receive comments relating to the Agreement. To be considered, comments must be received by the Department of Justice by the date that is 15 days from the date of this publication. Comments should be addressed to the Section Chief of the Environmental Enforcement Section, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044, and should refer to *In re Barzel Industries Inc. et al.*, Case No. 09–13204 (CSS), D.J. Ref. No. 90–11–3–1233/7. A copy of the comments should be sent to Donald G. Frankel, Senior Counsel, Department of Justice, Environmental Enforcement Section, One Gateway Center, Suite 616, Newton, MA 02458 or e-mailed to *donald.frankel@usdoj.gov*.

The Agreement may be examined at the Office of the United States Attorney, District of Delaware, 1201 Market Street, Suite 1100, Wilmington, Delaware (contact Ellen Slights at 302–573–6277). During the public comment period, the Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Agreement from the Consent Decree Library, please enclose a check in the amount of $3.50 (25 cents per page reproduction cost) payable to the U.S. Treasury (if the request is by fax or e-mail, forward a check to the Consent Decree library at the address stated above). Commenters may request an opportunity for a public meeting, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 2011–20779 Filed 8–15–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0317]

Agency Information Collection Activities: Proposed Collection; Comments Requested—Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired, Identity Theft Supplement (ITS) to the National Crime Victimization Survey (NCVS)

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until October 17, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lynn Langton, Statistician, Bureau of Justice Statistics, Office of Justice Programs, Department of Justice, 810 7th Street, NW., Washington, DC 20531, or facsimile (202) 307–1463.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* Identity Theft Supplement (ITS) to the National Crime Victimization Survey.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* ITS–1. Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract. Primary:* The survey will be administered to persons 16 years or older in NCVS sampled households in the United States. The Identity Theft Supplement (ITS) to the National Crime Victimization Survey collects, analyzes, publishes, and disseminates statistics on the prevalence, economic cost, and consequences of identity theft on victims.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Approximately 79,400 persons 16 years of age or older will complete an ITS interview. The majority of respondents, approximately 75,500, will be administered the screening portion of the ITS, which is designed to filter out those people who have not been victims of identity theft, as well as a brief section on actions taken to reduce the risk of identity theft victimization. We estimate the average length of the ITS interview for these individuals will be 0.05 hours (three minutes). Based on findings from the 2008 ITS, we estimate that approximately 5% of respondents will have experienced at least one incident of identity theft during the prior year. For these victims, we estimate each interview will take 0.25 hours (15 minutes) to complete.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 4,766 hours.

If additional information is required, contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–20783 Filed 8–15–11; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meeting

The National Science Board's Task Force on Merit Review, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Wednesday, August 24, 2011 at 1 p.m., E.D.T.

SUBJECT MATTER: Discussion of proposed revisions to the draft principles and review criteria.

STATUS: Open.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. A room will be available for the public and NSF staff to listen-in on this teleconference meeting. All visitors must contact the Board Office at least *one day* prior to the meeting to arrange for a visitor's badge and obtain the room number. Call 703–292–7000 to request your badge, which will be ready for pick-up at the visitor's desk on the day of the meeting. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive their visitor's badge on the day of the teleconference.

Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb/notices/*) for information or schedule updates, or *contact:* Kim Silverman, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. *Telephone:* (703) 292–7000.

Ann Ferrante,

Writer/Editor.

[FR Doc. 2011–20926 Filed 8–12–11; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, August 30, 2011.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

Matter To Be Considered

8275C Pipeline Accident Report—Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 by Friday, August 26, 2011.

The public may view the meeting via a live or archived webcast by accessing a link under "News & Events" on the NTSB home page at *http://www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing, (202) 314–6403 or by e-mail at *bingc@ntsb.gov.*

Dated: August 12, 2011.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2011–21014 Filed 8–12–11; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0174]

Applications and Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license amendment request, opportunity to comment, opportunity to request a hearing.

DATES: Comments must be filed by September 15, 2011. A request for a hearing must be filed by October 17, 2011. Any potential party as defined in Title 10 of the *Code of Federal*

Regulations (10 CFR), 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by August 26, 2011.

ADDRESSES: Please include Docket ID NRC–2011–0174 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov*. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0174. Address questions about NRC dockets to Carol Gallagher 301–492–3668; *e-mail: Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Chief, Rules, Announcements and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine, and have copied for a fee, publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.
- *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2011–0174.

Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission, NRC, or NRC staff) is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments SUNSI.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result in an emergency situation, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the

nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) A digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to

continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, *Attention:* Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.

Exelon Generation Company, LLC (EGC), Docket No. 50–254, Quad Cities Nuclear Power Station (QCNPS), Unit 1, Rock Island County, Illinois

Date of amendment request: June 7, 2011.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment revises the value of the single recirculation loop operation (SLO) safety limit minimum critical power ratio (SLMCPR) in Technical Specifications Section 2.1.1, "Reactor Core SLs [Safety Limits]." Specifically, the proposed change would replace the current SLO SLMCPR requirement for QCNPS Unit 1 with a new SLMCPR requirement. This proposed change does not affect the QCNPS Unit 1 two recirculation loop operation SLMCPR or either of the SLMCPR values for Unit 2. This change is needed to support the next cycle of operation (*i.e.*, Cycle 22) for QCNPS Unit 1 for cycle exposure greater than 4000 MWd/MT, which is currently scheduled to occur in November 2011.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits have been established consistent with NRC-approved methods to ensure that fuel performance during normal, transient, and accident conditions is acceptable. The proposed change to revise the QCNPS Unit 1 SLO SLMCPR requirement conservatively establishes the SLMCPR at the value for a core of all SVEA–96 Optimal fuel, such that the fuel is protected during normal operation and during plant transients or anticipated operational occurrences (AOOs).

The proposed SLMCPR value for QCNPS Unit 1 does not increase the probability of an evaluated accident. The change does not require any physical plant modifications, physically affect any plant components, or entail changes in plant operation. Therefore, no individual precursors of an accident are affected.

The proposed change revises the SLO SLMCPR value for QCNPS Unit 1 to protect the fuel during normal operation as well as during plant transients or AOOs. Operational limits will be established based on the proposed SLMCPR to ensure that the SLMCPR is not violated. This will ensure that the fuel design safety criterion (*i.e.*, that at least 99.9 percent of the fuel rods do not experience transition boiling during normal operation and AOOs) is met. Since the proposed change does not affect operability of plant systems designed to mitigate any consequences of accidents, the consequences of an accident previously evaluated will not increase.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Creation of the possibility of a new or different kind of accident requires creating one or more new accident precursors. New accident precursors may be created by modifications of plant configuration, including changes in allowable modes of operation. The proposed changes do not involve any plant configuration modifications or changes to allowable modes of operation. The proposed SLMCPR value does not result in the creation of any new precursors to an accident. The proposed change to revise the QCNPS Unit 1 SLO SLMCPR requirement assures that safety criteria are maintained for QCNPS Unit 1, Cycle 22.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The SLMCPR provides a margin of safety by ensuring that at least 99.9 percent of the fuel rods do not experience transition boiling during normal operation and AOOs if the SLMCPR limit is not violated. The proposed change will ensure the current level of fuel protection is maintained by continuing to ensure that at least 99.9 percent of the fuel rods do not experience transition boiling during normal operation and AOOs if the SLMCPR limit is not violated. The proposed SLMCPR value was developed using NRC-approved methods. Additionally, operational limits will be established based on the proposed SLMCPR value to ensure that the SLMCPR is not violated. This will ensure that the fuel design safety criterion (*i.e.*, that no more than 0.1 percent of the rods are expected to be in boiling transition if the MCPR limit is not violated) is met.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based upon the above, EGC concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of no significant hazards consideration is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Jacob I. Zimmerman.

Exelon Generation Company, LLC, Docket Nos. STN 50–456, STN 50–457, STN 50–454, STN 50–455, Braidwood Station, Units 1 and 2, Will County, Illinois, and Byron Station, Units 1 and 2, Ogle County, Illinois

Date of amendment request: March 14, 2011.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise Technical Specifications (TS) 3.3.1, "Reactor Trip System (RTS) Instrumentation," and TS 3.3.2, "Engineered Safety Feature Actuation System (ESFAS) Instrumentation." The proposed change reflects the installation of bypass test capability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed [amendment] involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Reactor Protection System (RPS) and Engineered Safety Feature Actuation System (ESFAS) provide plant protection and are part of the accident mitigation response. The RTS and ESFAS functions do not themselves act as a precursor or an initiator for any transient or design basis accident. Therefore, the proposed change does not significantly increase the probability of any accident previously evaluated.

The proposed change does not alter the design assumptions, conditions, or configuration of the facility. The structural and functional integrity of the RTS and ESFAS, or any other plant system, is unaffected. The proposed change does not alter or prevent the ability of structures, systems, and components from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. Surveillance testing in the bypass condition will not cause any design or analysis acceptance criteria to be exceeded.

Under the proposed change, the channel being tested may be bypassed. The number of available channels with one channel in bypass for testing will remain the same as the number of channels available when testing in trip. The number of channels to trip will be unchanged when testing in bypass while the number of channels to trip is reduced to one when testing in trip. Although there may be as light increase in the possibility that the failure of a channel could prevent the actuation of a function (because testing in bypass could result in two-out-of-two logic while testing in trip would have resulted in one-out-of-two logic), testing in bypass will reduce the vulnerability to inadvertent actuation of a function while maintaining the required number of channels to trip. The impact of using bypass test capability upon nuclear safety has been previously evaluated by the NRC and determined to be acceptable in WCAPs 14333–P–A, Revision 1, 15376–P–A, Revision 1, and 10271–P–A, Revision 1. Thus, testing in bypass when all channels are operable does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Under the proposed change, the channel being tested may be bypassed when another channel is concurrently inoperable and in a tripped condition. As a result, with one channel in bypass and another in trip leaves one-out-of-two operable channels to initiate the protective function (if the initial logic is two-out-of-four) or one-out-of-one operable channels to initiate the protective function (if the initial logic was two-out-of-three). Thus, testing in bypass with one channel inoperable does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Implementation of the bypass testing capability does not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. Plant response as modeled in the safety analyses is unaffected. Hence, the releases used as input to the dose calculations are unchanged from those previously assumed.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed [amendment] create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Surveillance testing in bypass does not affect accident initiation sequences or response scenarios as modeled in the safety analyses. No new operating configuration is being imposed by the surveillance testing in bypass that would create a new failure scenario. The RTS and ESFAS will continue to have the same setpoints after the proposed change is implemented. In addition, no new failure modes are being created for any plant equipment. The bypass test instrumentation has been designed to applicable regulatory and industry standards. Fault conditions, failure detection, reliability and equipment qualification have been considered. The changes do not result in the creation of any change to existing accident scenarios nor does it create any new or different accident scenarios. The types of accidents defined in the [Updated Final Safety Analysis Report] UFSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed [amendment] involve a significant reduction in a margin of safety?

Response: No.

No safety analyses were changed or modified as a result of the proposed TS change to reflect installed bypass test capability. The proposed change does not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. Margins associated with the current safety analyses acceptance criteria are unaffected. The current safety analyses remain bounding since their conclusions are not affected by performing surveillance testing in bypass. The safety systems credited in the safety analyses will continue to be available to perform their mitigation functions.

Implementation of testing in bypass results in an overall improvement in safety because the capability to test in bypass for the analog channels will promote improved maintenance practices that will provide a resultant reduction in the number of spurious reactor trips and spurious actuation of safety equipment.

Therefore, the proposed change does not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, VP & Deputy General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Jacob I. Zimmerman.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: April 18, 2011.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed change would revise Technical Specifications for the Engineered Safety Feature Actuation System

Instrumentation to allow the surveillance frequency for the Westinghouse-type AR relays that are used as Solid State Protection System (SSPS) slave relays or auxiliary relays to be expanded from quarterly to every 18 months or refueling. Westinghouse Electric Company, LLC (Westinghouse) Topical Report WCAP–13877–P–A Revision 2, dated August 2000, "Reliability Assessment of Westinghouse Type AR Relays Used as SSPS Slave Relays," provides the details and results that support the increased surveillance interval.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The change to the Technical Specifications does not result in a condition where the design, material, and construction standards that are applicable to slave relays has been changed or degraded. The change is to increase the allowable surveillance to a less impacting 18 month interval. The standard for Westinghouse Plants specifically required quarterly testing of slave relays in the Solid State Protection System (SSPS) instrumentation that initiates proper unit shutdown or engineered safety feature. The Solid State Protective System (SSPS) actuates the Engineered Safety Features Actuation Systems (ESFAS). Current surveillance requirements involve testing the relays at power, with the attendant risk of inadvertent actuation of the engineered safety features. In addition, the on-line testing of slave relays required plant manipulation, abnormal configurations, and removed from service various equipment making it unavailable to perform its intended safety function. Generic Letter 93–05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation" identified that relay testing could be performed on a "staggered test basis over a cycle and leave the tests carrying highest risk to a refueling outage or other cold shutdown."

The SSPS can initiate safeguard functions to maintain the reactor plant in a safe shutdown condition. Safeguard actuation occurs when a train of logic senses the need for any of the particular safeguards actions. Safeguard actuation is determined by the SSPS in the same way as the need for a reactor trip. When the required logic is present, one or more master relays are energized. Each master relay typically has several slave relays energized by the master relay. The slave relays operate the contacts necessary to open and close valves, shift control room air ventilation line ups, start diesel generators, etc. Each safeguards train actuates a physically and electrically separate train of pumps and valves, with a dedicated diesel generator for electrical power. Failure of one component of a train (or the entire train) does not prevent sufficient action by the other train. The SSPS actuated functions are: Safety Injection (causes a reactor trip, various pumps and coolers to start, and various valves to open and close), Containment Isolation (closes valves to isolate the Reactor Building interior from the environment), Steam isolation (close all three main steam isolation valves), and Reactor Building Spray (each train provides flow).

Westinghouse Electric Company, LLC (Westinghouse) topical report WCAP–13877–P–A Rev 2, dated August 2000, "Reliability Assessment of Westinghouse Type AR Relays Used as SSPS Slave Relays" provides the details and results that support the increased surveillance interval. The same ESFAS instrumentation is being used and the same ESFAS system reliability is expected. The proposed change will not modify any system interface or function; therefore, will not increase the likelihood of an accident. The proposed activity will not change, degrade or prevent the performance of any accident mitigation systems or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the FSAR. Therefore, the proposed amendment does not result in any increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. Increasing the surveillance interval does not alter the performance of the ESFAS mitigation systems assumed in the plant safety analysis nor will it create any new accident initiators or scenarios. Westinghouse Electric Company, LLC (Westinghouse) topical report WCAP–13877–P–A Rev 2, dated August 2000, "Reliability Assessment of Westinghouse Type AR Relays Used as SSPS Slave Relays" provides the details and results that support the increased surveillance interval. Current surveillance requirements involve testing the relays at power, with the attendant risk of inadvertent actuation of the engineered safety features. In addition, the on-line testing of slave relays required plant manipulation, abnormal configurations, and removed from service various equipment making it unavailable to perform its intended safety function. Generic Letter 93–05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation" identified that relay testing could be performed on a "staggered test basis over a cycle and leave the tests carrying highest risk to a refueling outage or other cold shutdown." Each safeguards train actuates a physically and electrically separate train of pumps and valves with a dedicated diesel generator for electrical power. Failure of one component of a train (or the entire train) does not prevent sufficient action by the other train. The SSPS actuated functions are: Safety Injection (causes a reactor trip, various pumps and coolers to start, and various valves to open and close), Containment Isolation (closes valves to isolate the Reactor Building interior from the environment), Steam isolation (close all three main steam isolation valves), and Reactor Building spray (Each train provides flow). The current SSPS functions are a potential challenge to the plant when tested at power, in that isolation or activation of major components place the unit in an unfavorable conditions that are corrected by initiating Abnormal Operating Procedures. The change will increase the allowable surveillance to a less impacting 18 month interval therefore allowing testing to be completed during a time period where activation would have less of an effect on operation. Implementation of the proposed amendment does not create the possibility of a new or different kind of accident previously evaluated within the FSAR [Final Safety Analysis Report].

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The change to the Technical Specifications increasing the surveillance interval does not result or involve a significant reduction in a margin of safety. Westinghouse Electric Company, LLC (Westinghouse) topical report WCAP–13877–P–A Rev 2, dated August 2000, "Reliability Assessment of Westinghouse Type AR Relays Used as SSPS Slave Relays" provides the details and results that support the increased surveillance interval. The periodic slave relay functional verification should be relaxed because of the demonstrated high reliability of the relay and its insensitivity to any short term wear or aging effects. The current SSPS functions are a potential challenge to the plant when surveillance tested at power, in that isolation or activation of major components places the unit in an unfavorable condition that is corrected by initiating Abnormal Operating Procedures. The change will increase the allowable surveillance to a less impacting 18 month interval therefore allowing testing to be completed during a time period where activation would have less of an effect on operation. Implementation of the proposed amendment does not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Hagood Hamilton, Jr., South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Gloria Kulesa.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Exelon Generation Company, LLC, Docket No. 50–254, Quad Cities Nuclear Power Station, Unit 1, Rock Island County, Illinois

Exelon Generation Company, LLC, Docket Nos. STN 50–456, STN 50–457, STN 50–454, STN 50–455, Braidwood Station, Units 1 and 2, Will County, Illinois, and Byron Station, Units 1 and 2, Ogle County, Illinois

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmail center@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. *Review of Grants of Access.* A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It Is So Ordered.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Dated at Rockville, Maryland, this 2nd day of August 2011.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2011–19984 Filed 8–15–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0184; Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Wolf Creek Nuclear Operating Corporation (the licensee) to withdraw its September 22, 2010 application, as supplemented by letter dated November 22, 2010, for proposed amendment to Renewed Facility Operating License No. NPF–42 for the Wolf Creek Generating Station (WCGS), located in Coffey County, Kansas.

The proposed amendment would have revised the approved fire protection program as described in the WCGS Updated Safety Analysis Report (USAR). Specifically, the licensee requested approval for a deviation from a commitment to certain technical requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), part 50, Appendix R, Section III.L.1, "Alternative and dedicated shutdown capability," as described in Appendix 9.5E of the WCGS USAR. The change would have revised USAR Table 9.5E–1 to include information on reactor coolant system process variables not maintained within those predicted for a loss of normal AC (alternating current) power.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 28, 2010 (75 FR 81673). However, by letter dated June 30, 2011, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated September 22, 2010, as supplemented by letter dated November 22, 2010, and the licensee's letter dated June 30, 2011, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr.resource@nrc.gov*.

Dated at Rockville, Maryland, this 9th day of August 2011.

For the Nuclear Regulatory Commission.

James R. Hall,

Senior Project Monoger, Plont Licensing Bronch IV, Division of Operoting Reoctor Licensing, Office of Nucleor Reoctor Regulotion.

[FR Doc. 2011–20793 Filed 8–15–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0355; Order EA–11–180; Docket Nos. 70–7003, 70–7004; License Nos. SNM–7003, SNM–2011]

In the Matter of USEC Inc., American Centrifuge Lead Cascade Facility, and American Centrifuge Plant; Order Extending the Date by Which the Direct Transfer of Licenses Is To Be Completed

I

USEC Inc. (USEC) is the holder of materials licenses SNM–7003 and SNM–2011 for the American Centrifuge Lead Cascade Facility (Lead Cascade) and American Centrifuge Plant (ACP), respectively, which authorize the licensee to: (1) Possess and use source and special nuclear material at the Lead Cascade at the Portsmouth Gaseous Diffusion Plant site in Piketon, Ohio, in accordance with materials license number SNM–7003; and (2) construct and operate a gas centrifuge uranium enrichment facility (the ACP) at the Portsmouth Gaseous Diffusion Plant site in Piketon, Ohio, in accordance with materials license number SNM–2011.

II

The U.S. Nuclear Regulatory Commission's (NRC) Order, dated February 10, 2011, approved the direct transfer of the licenses of the above facilities from USEC to the limited liability company American Centrifuge Operating, LLC (ACO), pursuant to Sections 161(b), 161(i), 161(o) and 184 of the Atomic Energy Act, as amended; 42 United States Code (U.S.C.) 2201(b), 2201(i), and 2234; and Title 10 *Code of Federal Regulations* (10 CFR) parts 30.34(b), 40.46, "Inalienability of Licenses," and 70.36, "Inalienability of Licenses." By its terms, the February 10, 2011, Order will become null and void if the license transfers are not completed within 180 days from February 10, 2011 (i.e., by August 9, 2011). However, the February 10 Order further states that upon written application and for good cause shown, the 180-day period may be extended by further Order.

III

By letter dated July 22, 2011, as supplemented by electronic communication dated August 1, 2011, USEC submitted a request to extend the date by which the license transfers must be completed from August 9, 2011, to February9, 2012. USEC stated that it has been working diligently with the Department of Energy over the past several months to conclude the review process for USEC's loan guarantee application, but would not be able to complete this process by August 9, 2011.

USEC states that there have been no changes in the information and technical and financial qualifications presented in its September 10, 2010, request to transfer the licenses. USEC states that the basis for granting that request has, thus, not changed and remains valid. The NRC staff notes that its basis for approving the transfers of USEC's licenses for the Lead Cascade and the ACP from USEC to ACO is documented in its Safety Evaluation Report (SER) supporting the February 10 Order. The NRC staff concluded that the basis for approval has not changed since the issuance of the February 10 Order.

The NRC staff has considered the submittal of July 22, 2011, as supplemented by electronic communication dated August 1, 2011, and has determined that good cause has been shown to extend, until February 9, 2012, the date by which the license transfers must be completed.

IV

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 30.34(b), 40.46, "Inalienability of Licenses," and 70.36, "Inalienability of Licenses," *It Is Hereby Ordered* that the date by which the license transfers described above must be completed is extended to February 9, 2012. If the proposed direct transfer of licenses is not completed by February 9, 2012, this Order and the February 10 Order shall become null and void. However, upon written application and for good cause shown, the February 9, 2012, date may be extended by further Order.

This Order is effective upon issuance. The Order of February 10, 2011, as modified by this Order, remains in full force and effect.

For further details with respect to this Order, see the submittal dated July 22, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11210B497), as supplemented by electronic communication dated August 1, 2011 (ADAMS Accession No. ML11213A282), and the SER documenting NRC's staff evaluation of USEC's submittal dated July 22, 2011 (ADAMS Accession No. ML112140088), which may be examined—and/or copied for a fee—at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (First Floor), Rockville, MD 20852; and accessible online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.*

Dated at Rockville, Maryland, this 8th day of August 2011.

For the U.S. Nuclear Regulatory Commission.

Catherine Haney,

Director, Office of Nuclear Material Sofety and Safeguards.

[FR Doc. 2011–20792 Filed 8–15–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0441; Docket Nos. 52–025–COL and 52–026–COL]

Southern Nuclear Operating Co., et al.; Combined Licenses for Vogtle Electric Generating Plant, Units 3 and 4, and Limited Work Authorizations

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding the application of Southern Nuclear Operating Company for two combined licenses (COLs) seeking approval to construct and operate new nuclear power generation facilities at the Vogtle Electric Generating Plant, Units 3 & 4 (VEGP), as well as for two limited work authorizations (LWAs) to engage in selected construction activities. This mandatory hearing will concern safety and environmental matters relating to the proposed issuance of the requested COLs and LWAs.

DATES: The hearing will be held on September 27, 2011, from 9 a.m. (Eastern Daylight Time). For a schedule for submitting prefiled documents and deadlines affecting Interested Government Participants, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Rochelle C. Bavol, Office of the Secretary, U.S. Nuclear Regulatory

Commission, Washington, DC 20555–0001, telephone: 301–415–1651; e-mail: *Rochelle.Bavol@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Commission hereby gives notice that, pursuant to Section 189a of the Atomic Energy Act, it will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding the March 28, 2008, application of Southern Nuclear Operating Company, acting for itself and Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia, for two Title 10 of the *Code of Federal Regulations* (10 CFR) part 52 combined licenses (COLs), seeking approval to construct and operate new nuclear power generation facilities at the existing Vogtle Electric Generating Plant (VEGP) site near Waynesboro, Georgia. This mandatory hearing will also encompass the applicant's October 2, 2009, request for two limited work authorizations (LWAs) to engage in selected construction activities as defined in 10 CFR 50.10. This mandatory hearing will concern safety and environmental matters relating to the proposed issuance of the requested COLs and LWAs, as more fully described below. Participants in the hearing are not to address any contested issues in their written filings or oral presentations.

Matters To Be Considered

The matter at issue in this proceeding is whether the review of the application by the Commission's staff has been adequate to support the findings found in 10 CFR 52.97 and 10 CFR 51.107(a), for each of the COLs to be issued, and in 10 CFR 50.10 and 10 CFR 51.107(d), with respect to the LWAs. Those findings are as follows:

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

With respect to each COL: (1) Whether the applicable standards and requirements of the Act and the Commission's regulations have been met; (2) whether any required notifications to other agencies or bodies have been duly made; (3) whether there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations; (4) whether the applicant is technically and financially qualified to engage in the activities authorized; and (5) whether issuance of the license will not be inimical to the common defense and security or the health and safety of the public.

With respect to the LWAs: (1) Whether the applicable standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations applicable to the activities to be conducted under the LWAs, have been met; (2) whether the applicant is technically qualified to engage in the activities authorized; (3) whether issuance of the LWAs will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security; and (4) whether there are no unresolved safety issues relating to the activities to be conducted under the LWAs that would constitute good cause for withholding the authorization.

Issues Pursuant to the National Environmental Policy Act (NEPA) of 1969, as Amended

With respect to each COL: (1) Determine whether the requirements of Sections 102(2) (A), (C), and (E) of NEPA and the applicable regulations in 10 CFR part 51 have been met; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; (3) determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the combined license should be issued, denied, or appropriately conditioned to protect environmental values; and (4).determine whether the NEPA review conducted by the NRC staff has been adequate.

With respect to the LWAs: (1) Determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and the regulations in Subpart A of 10 CFR part 51 have been met, with respect to the activities to be conducted under the LWAs; (2) independently consider the balance among conflicting factors with respect to the LWAs, which is contained in the record of the proceeding, with a review to determining the appropriate action to be taken; (3) determine whether the redress plan will adequately redress the activities performed under the LWAs, should limited work activities be terminated by the holder or the LWAs be revoked by the NRC, or upon effectiveness of the Commission's final decision denying the COL application; and (4) determine whether the NEPA review conducted by the NRC staff for the LWAs has been adequate.

Evidentiary Uncontested Hearing

The Commission will conduct this hearing beginning at 9 a.m., Eastern Daylight Time (EDT) on September 27, 2011, at the Commission's headquarters in Rockville, Maryland. The hearing on these issues will continue on subsequent days, if necessary.

Presiding Officer

The Commission is the presiding officer for this proceeding.

Schedule for Submittal of Pre-Filed Documents

No later than September 12, 2011, unless the Commission directs otherwise, the staff and the applicant shall submit a list of its anticipated witnesses for the hearing.

No later than September 12, 2011, unless the Commission directs otherwise, the applicant shall submit its pre-filed written testimony. The staff previously submitted its testimony on August 9, 2011.

The Commission may issue written questions to the applicant or the staff before the hearing. If such questions are issued, an order containing such questions will be issued no later than August 30, 2011. Responses to such questions are due September 12, 2011, unless the Commission directs otherwise.

Interested Government Participants

No later than August 26, 2011, any interested State, local government body, or affected, Federally-recognized Indian Tribe may file with the Commission a statement of any issues or questions that the State, local government body, or Indian Tribe wishes the Commission to give particular attention to as part of the uncontested hearing process. Such statement may be accompanied by any supporting documentation that the State, local government body, or Indian Tribe sees fit to provide. Any statements and supporting documentation (if any) received by the Commission using the agency's E-filing system [1] by the

[1] The process for accessing and using the agency's E-filing system is described in the September 16, 2008, notice of hearing that was issued by the Commission for this proceeding. See Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a Combined License for the Vogtle Electric Generating Plant Units 3 and 4 [73 FR 53446]. Participants who are unable to use the EIE, or who will have difficulty complying with EIE requirements in the time frame provided for submission of written statements, may provide their statements by electronic mail to *hearingdocket@nrc.gov.*

deadline indicated above will be made part of the record of the proceeding. The Commission will use such statements and documents as appropriate to inform its pre-hearing questions to the Staff and applicant, its inquiries at the oral hearing and its decision following the hearing. The Commission may also request, prior to September 13, 2011, that one or more particular States, local government bodies, or Indian Tribes send one representative each to the evidentiary hearing to answer Commission questions and/or make a statement for the purpose of assisting the Commission's exploration of one or more of the issues raised by the State, local government body, or Indian Tribe in the pre-hearing filings described above. The decision of whether to request the presence of a representative of a State, local government body, or Indian Tribe at the evidentiary hearing to make a statement and/or answer Commission questions is solely at the Commission's discretion. The Commission's request will specify the issue or issues that the representative should be prepared to address.

States, local governments, or Indian Tribes should be aware that this evidentiary hearing is separate and distinct from the NRC's contested hearing process. Issues within the scope of contentions that have been admitted in a contested proceeding for a COL application are outside the scope of the uncontested proceeding for that COL application. In addition, while States, local governments, or Indian Tribes participating as described above may take any position they wish, or no position at all, with respect to issues regarding the COL application or the NRC Staff's associated environmental review that do fall within the scope of the uncontested proceeding (*i.e.*, issues that are not within the scope of admitted contentions), they should be aware that many of the procedures and rights applicable to the NRC's contested hearing process due to the inherently adversarial nature of such proceedings are not available with respect to this uncontested hearing. Participation in the NRC's contested hearing process is governed by 10 CFR 2.309 (for persons or entities, including States, local governments, or Indian Tribes, seeking to file contentions of their own).and 10 CFR 2.315(c) (for interested States, local governments, and Indian Tribes seeking to participate with respect to contentions filed by others). Participation in this uncontested hearing does not affect a State's, local government's, or Indian Tribe's right to participate in the separate contested hearing process.

Dated at Rockville, Maryland, this 10th day of August 2011.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 2011–20938 Filed 8–12–11; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0006]

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of August 15, 22, 29, September 5, 12, 19, 2011.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of August 15, 2011

There are no meetings scheduled for the week of August 15, 2011.

Week of August 22, 2011—Tentative

There are no meetings scheduled for the week of August 22, 2011.

Week of August 29, 2011—Tentative

Tuesday, August 30, 2011

8:55 a.m. Affirmation Session (Public Meeting) (Tentative)
Final Rule: Enhancements to Emergency Preparedness Regulations (10 CFR part 50 and 10 CFR part 52) (RIN–3150–Al10) (Tentative)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

9 a.m. Information Briefing on Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) Related Activities (Public Meeting) (Contact: Aida Rivera-Varona, 301–251–4001)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of September 5, 2011—Tentative

There are no meetings scheduled for the week of September 5, 2011.

Week of September 12, 2011—Tentative

There are no meetings scheduled for the week of September 12, 2011.

Week of September 19, 2011—Tentative

There are no meetings scheduled for the week of September 19, 2011.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by e-mail at *william.dosch@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: August 11, 2011.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2011–20940 Filed 8–12–11; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control number 3206–0248]

Submission for Review: Application for Senior Administrative Law Judge (OPM Form 1655), and Geographic Preference Statement for Senior Administrative Law Judge Applicant (OPM Form 1655–A)

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Human Resources Solutions, U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0248, OPM 1655, and OPM 1655–A. These forms are used by retired Administrative Law Judges seeking

reemployment on a temporary and intermittent basis to complete hearings of one or more specified case(s) in accordance with the Administrative Procedures Act of 1946. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on May 4, 2011 at Volume 76 FR 25379 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

DATES: Comments on this proposal will be accepted until September 15, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Analysis

Agency: Human Resources Solutions, U.S. Office of Personnel Management.

Title: Application for Senior Administrative Law Judge (OPM Form 1655), and *Geographic Preference Statement for Senior Administrative Law Judge Applicant* (OPM Form 1655–A).

OMB Number: 3206–0248.

OPM Forms 1655 and 1655–A Frequency: Annually.

Affected Public: Individuals.

OPM Form 1655 Number of Respondents: Approximately 100.

OPM Form 1655 Estimated Time per Respondent: 30–45 Minutes.

OPM Form 1655 Burden Hours: 94 hours.

OPM Form 1655–A Number of Respondents: Approximately 150.

OPM Form 1655–A Estimated Time per Respondent: 15–25 Minutes.

OPM Form 1655–A Burden Hours: 67 hours.

Total Burden Hours: 161 hours.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–20797 Filed 8–15–11; 8:45 am]

BILLING CODE 6325–43–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Financial Resources Questionnaire (RI 34–1, RI 34–17, and RI 34–18) and Notice of Amount Due Because of Annuity Overpayment (RI 34–3, RI 34–19, and RI 34–20)

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0167, Financial Resources Questionnaire and Notice of Amount Due Because of Annuity Overpayment. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until October 17, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Linda Bradford (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500 or sent via electronic mail to *Martha.Moore@opm.gov*.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street, NW., Room 4332, Washington, DC 20415, *Attention:* Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: Financial Resources Questionnaire (RI 34–1), Financial Resources Questionnaire—Federal Employees' Group Life Insurance Premiums Underpaid (RI 34–17), and Financial Resources Questionnaire—Federal Employees Health Benefits Premiums Underpaid (RI 34–18), collects detailed financial information for use by OPM to determine whether to agree to a waiver, compromise, or adjustment of the collection of erroneous payments from the Civil Service Retirement and Disability Fund. Notice of Amount Due Because Of Annuity Overpayment (RI 34–3), Notice of Amount Due Because of FEGLI Premium Underpayment (RI 34–19), and Notice of Amount Due Because of FEHB Premium Underpayment (RI 34–20), informs the annuitant about the

overpayment and collects information from the annuitant about how repayment will be made.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Financial Resources Questionnaire and Amount Due Because of Annuity Overpayment.

OMB Number: 3206–0167.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 2,081.

Estimated Time Per Respondent: 60 minutes.

Total Burden Hours: 2,081.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–20805 Filed 8–15–11; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: DD 1918 Establishment Information Form, DD 1919 Wage Data Collection Form, DD 1919C Wage Data Collection Continuation Form

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0036, Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C). As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection and is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until October 17, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Attention: Jerome D. Mikowicz, Deputy Associate Director for Pay and Leave, 1900 E Street, NW., Room 7H31, Washington, DC 20415–8200, or sent via electronic mail to *pay-leave-policy@opm.gov*, or faxed to (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable documentation, may be obtained by contacting the U.S. Office of Personnel Management, Attention: Jerome D. Mikowicz, Deputy Associate Director for Pay and Leave, 1900 E Street, NW., Room7H31, Washington, DC 20415–8200, or sent via electronic mail to *pay-leave-policy@opm.gov*, or faxed to (202) 606–4264.

SUPPLEMENTARY INFORMATION: The Establishment Information Form, the Wage Data Collection Form, and the Wage Data Collection Continuation Form are wage survey forms developed by OPM for use by the Department of Defense to establish prevailing wage rates for Federal Wage System employees.

Analysis

Agency: Employee Services, U.S. Office of Personnel Management.

Title: Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C).

OMB Number: 3206–0036.

Frequency: Annually.

Affected Public: Private Sector Establishments.

Number of Respondents: 21,760.

Estimated Time Per Respondent: 1.5 hours.

Total Burden Hours: 32,640 hours.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–20798 Filed 8–15–11; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: RI 25–37, Evidence To Prove Dependency of a Child, 3206–0206

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0206, Evidence to Prove Dependency of a Child. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on April 25, 2011 at Volume 76 FR 22938 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until September 15, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel

Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Evidence to Prove Dependency of a Child is designed to collect sufficient information for the Office of Personnel Management to determine whether the surviving child of a deceased Federal employee is eligible to receive benefits as a dependent child.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Evidence to Prove Dependency of a Child.

OMB Number: 3206–0206.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 250.

Estimated Time Per Respondent: 1 hour.

Total Burden Houses: 250.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–20801 Filed 8–15–11; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 213.103.

FOR FURTHER INFORMATION CONTACT: Roland Edwards, Senior Executive Resource Services, Executive Resources and Employee Development, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between May 1, 2011, and May 31, 2011. These notices are published monthly in the **Federal Register** at *http://www.gpoaccess.gov/fr/* A consolidated listing of all authorities as of June 30 is also published each year. The following Schedules are not codified in the Code of Federal Regulations. These are agency-specific exceptions.

Schedule A

No Schedule A authorities to report during May 2011.

Schedule B

No Schedule B authorities to report during May 2011.

Schedule C

The following Schedule C appointments were approved during May 2011.

Agency name	Organization name	Position title	Authorization number	Effective date
DEPARTMENT OF AGRICULTURE.	Office of the Assistant Secretary for Administration.	Chief of Staff	DA110063	5/13/2011
	Office of the Under Secretary for Research, Education, and Economics.	Special Assistant	DA110068	5/19/2011
	Office of the Secretary	Deputy White House Liaison	DA110069	5/19/2011
	National Institute of Food and Agriculture.	Director of Congressional Affairs for Research, Education, and Economics and National Institute of Food and Agriculture.	DA110071	5/26/2011
APPALACHIAN REGIONAL COMMISSION.	Appalachian Regional Commission.	Policy Advisor	AP110001	5/12/2011
DEPARTMENT OF COMMERCE.	Office of the Under Secretary	Chief of Staff for International Trade Administration.	DC110068	5/3/2011
	International Trade Administration.	Director, Office of Strategic Partnerships.	DC110073	5/19/2011
	Office of Executive Secretariat	Special Assistant	DC110074	5/19/2011
DEPARTMENT OF DEFENSE	Office of the Secretary	Deputy White House Liaison	DD110074	5/20/2011
DEPARTMENT OF EDUCATION.	Office of the Secretary	Deputy Chief of Staff for Operations and Strategy.	DB110063	5/2/2011
	Office of Legislation and Congressional Affairs.	Deputy Assistant Secretary (Oversight).	DB110062	5/3/2011
	Office of the Secretary	Executive Assistant	DB110057	5/3/2011
	Office of Legislation and Congressional Affairs.	Confidential Assistant	DB110061	5/11/2011
	Office of Legislation and Congressional Affairs.	Deputy Press Secretary	DB110066	5/19/2011
	Office of the General Counsel	Confidential Assistant	DB110070	5/19/2011
	Office of Planning, Evaluation and Policy Development.	Confidential Assistant	DB110073	5/19/2011
	Office of the Secretary	Confidential Assistant	DB110072	5/19/2011
	Office of the Secretary	Confidential Assistant	DB110071	5/19/2011
	Office of Planning, Evaluation and Policy Development.	Confidential Assistant	DB110069	5/19/2011
	Office of Legislation and Congressional Affairs.	Confidential Assistant	DB110068	5/19/2011
	Office of the Secretary	Special Assistant	DB110067	5/20/2011

Agency name	Organization name	Position title	Authorization number	Effective date
DEPARTMENT OF ENERGY	Office of Nuclear Energy, Science and Technology.	Special Assistant	DE110084	5/11/2011
	Office of General Counsel	Senior Counsel	DE110085	5/19/2011
	Office of Assistant Secretary for Policy and International Affairs.	Special Assistant	DE110093	5/24/2011
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Administrator	Policy Analyst	EP110022	5/2/2011
EXPORT-IMPORT BANK	Office of the General Counsel	Senior Vice President and General Counsel.	EB110009	5/27/2011
FEDERAL ENERGY REGULATORY COMMISSION.	Office of the Chairman	Confidential Assistant	DR110005	5/19/2011
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Assistant Secretary for Planning and Evaluation.	Director of Delivery System Reform.	DH110075	5/13/2011
DEPARTMENT OF HOMELAND SECURITY.	Office of the Chief of Staff	Confidential Assistant	DM110138	5/4/2011
	Office of the Assistant Secretary for Policy.	Special Assistant	DM110151	5/4/2011
	Office of the Chief of Staff	Special Assistant	DM110141	5/4/2011
	Office of the Secretary	Special Assistant	DM110139	5/6/2011
	Office of the Assistant Secretary for Public Affairs.	Public Affairs and Strategic Communications Assistant.	DM110163	5/12/2011
	Office of Assistant Secretary for Legislative Affairs.	Legislative Affairs Specialist	DM110160	5/13/2011
	Office of the Chief of Staff	Special Assistant	DM110169	5/13/2011
	Office of Assistant Secretary for Legislative Affairs.	Legislative Affairs Specialist	DM110173	5/18/2011
	U.S. Immigration and Customs Enforcement.	Special Assistant	DM110170	5/19/2011
	Office of the Assistant Secretary for Public Affairs.	Advisor for Strategic Planning and Coordination.	DM110175	5/20/2011
	Office of the Assistant Secretary for Public Affairs.	Director of Special Projects	DM110174	5/27/2011
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the General Counsel	Special Assistant	DU110021	5/6/2011
DEPARTMENT OF THE INTERIOR.	Secretary's Immediate Office	Special Assistant	DI110050	5/11/2011
DEPARTMENT OF JUSTICE	Office of Intergovernmental and Public Liaison.	Associate Director	DJ110077	5/23/2011
DEPARTMENT OF LABOR	Office of the Solicitor	Senior Counselor	DL110031	5/9/2011
	Office of Congressional and Intergovernmental Affairs.	Senior Legislative Officer	DL110030	5/13/2011
	Office of Public Affairs	Special Assistant	DL110034	5/19/2011
SECURITIES AND EXCHANGE COMMISSION.	Division of Investment Management.	Confidential Assistant	SE110004	5/17/2011
SMALL BUSINESS ADMINISTRATION.	Office of Field Operations	Regional Administrator, Region VII, Kansas City, Missouri.	SB110013	5/17/2011
SOCIAL SECURITY ADMINISTRATION.	Office of the Commissioner	Senior Advisor	SZ110035	5/12/2011
DEPARTMENT OF STATE	Bureau of Public Affairs	Senior Advisor	DS110077	5/18/2011
DEPARTMENT OF TRANSPORTATION.	Administrator	Director of Communications	DT110028	5/13/2011
DEPARTMENT OF THE TREASURY.	Secretary of the Treasury	Special Assistant	DY110079	5/31/2011

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–20806 Filed 8–15–11; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29751; 812–13883]

Pax World Funds Series Trust I and Pax World Management LLC; Notice of Application

August 10, 2011.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant

relief from certain disclosure requirements.

Applicants: Pax World Funds Series Trust I ("Mutual Funds Trust") and Pax World Management LLC (the "Adviser") (collectively, "Applicants").

Filing Dates: The application was filed on March 22, 2011, and amended on August 1, 2011. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 6, 2011 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. *Applicants:* c\o Stuart E. Fross, K&L Gates LLP, One Lincoln Street, Boston, MA 02111, and Joseph F. Keefe, Pax World Management LLC, 30 Penhallow Street, Suite 400, Portsmouth, New Hampshire 03801.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Mutual Funds Trust, a Massachusetts business trust, is registered under the Act as open-end management investment companies and currently offers eleven series (each a "Series" and Mutual Funds Trust, Series or future Series, a "Fund" and collectively the "Funds"), each of which has its own distinct investment objectives, policies and restrictions.[1] The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and serves as the investment adviser to the Mutual Funds Trust pursuant to separate investment advisory agreements (each an "Investment Advisory Agreement" and collectively, the "Investment Advisory Agreements") with each Fund. Each Investment Advisory Agreement has been or will be approved by the Mutual Funds Trust's board of trustees (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Trust or the Adviser ("Independent Trustees") and by the shareholders of the relevant Fund in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.

2. Under the terms of the Investment Advisory Agreements, the Adviser, subject to the oversight of the Board, furnishes a continuous investment program for each Fund. The Adviser periodically reviews investment policies and strategies of each Fund and based on the need of a particular Fund may recommend changes to the investment policies and strategies of the Fund for consideration by its Board. For its services to each Fund, the Adviser receives an investment advisory fee from that Fund as specified in the applicable Investment Advisory Agreement based on the average daily net asset value of that Fund. The terms of the Investment Advisory Agreements also permit the Adviser, subject to the approval of the relevant Board, including a majority of the Independent Trustees, and the shareholders of the applicable Subadvised Funds (if required by applicable law), to delegate portfolio management responsibilities of all or a portion of the assets of the Subadvised Fund to one or more subadvisers ("Sub-Advisers"). The Adviser has entered into subadvisory agreements ("Sub-Advisory Agreements") with various Sub-Advisers to provide investment advisory services to various Subadvised Funds.[2] Each Sub-Adviser is, and each future Sub-Adviser will be, an investment adviser as defined in section 2(a)(20) of the Act as well as registered with the Commission as an "investment adviser" under the Advisers Act. The Adviser evaluates, allocates assets to and oversees the Sub-Advisers, and makes recommendations about their hiring, termination and replacement to the Board, at all times subject to the authority of the Board.[3] The Adviser will compensate each Sub-Adviser out of the fee paid to the Adviser under the relevant Investment Advisory Agreement, or the Subadvised Fund will be responsible for paying subadvisory fees directly to the Sub-Adviser.

3. Applicants request an order to permit the Adviser, subject to Board approval, to select certain Sub-Advisers to manage all or a portion of the assets of a Subadvised Fund pursuant to a Sub-Advisory Agreement and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Subadvised Fund or the Adviser, other than by reason of serving as a Sub-Adviser a Subadvised Funds ("Affiliated Sub-Adviser").

4. Applicants also request an order exempting the Subadvised Funds from certain disclosure provisions described below that may require the Applicants to disclose fees paid by the Adviser or a Subadvised Fund to each Sub-Adviser. Applicants seek an order to permit each Subadvised Fund to disclose (as a dollar amount and a percentage of each

[1] Applicants also request relief with respect to any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (collectively, the "Adviser") or its successors; (b) uses the multi-manager structure ("Multi-Manager Structure") described in the application; and (c) complies with the terms and conditions of this application (together with any Funds that currently use the Multi-Manager Structure, each a "Subadvised Fund" and collectively, the "Subadvised Funds"). The only existing registered open-end management investment companies that currently intend to rely on the requested order are named as applicants. For purposes of the requested order, "successor" is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. If the name of any Subadvised Fund contains the name of a Sub-Adviser (as defined below), the name of the Adviser will precede the name of the Sub-Adviser.

[2] The Adviser has entered into Sub-Advisory Agreements with Impax Asset Management Ltd., Access Capital Strategies LLC, a division of Voyageur Asset Management Inc., Ariel Investments, LLC, ClearBridge Advisors, LLC, Community Capital Management, Inc., Miller Howard Investments Inc., Mennonite Mutual Aid Association, Neuberger Berman Management, LLC, Portfolio 21 Investments, Inc. and Parnassus Investments.

[3] As described more fully in the application, the Adviser utilizes the services of Morningstar Associates, LLC ("Morningstar Associates") under a subsidiary agreement for recommending to the Adviser and the Board various Sub-Advisers. The responsibility for the evaluation, selection, and recommendation of Sub-Advisers to manage the assets (or portion thereof) of a Subadvised Fund, as well as the monitoring and review of the Sub-Adviser ultimately rests with the Adviser. Applicants acknowledge that the requested relief will not extend to any such subadvisory agreement with Morningstar Associates.

Subadvised Fund's net assets) only: (a) The aggregate fees paid to the Adviser and any Affiliated Sub-Advisers; and (b) the aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (collectively, the "Aggregate Fee Disclosure"). A Subadvised Fund that employs an Affiliated Sub-Adviser will provide separate disclosure of any fees paid to the Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 ("1934 Act"). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fees," a description of the "terms of the contract to be acted upon," and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Adviser, subject to the review and approval of the Board, to select the Sub-Advisers who are best suited to achieve the Subadvised Fund's investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Adviser is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants state that requiring shareholder approval of each Sub-Advisory Agreement would impose unnecessary delays and expenses on the Subadvised Funds, and enable the Subadvised Fund to act more quickly when the Board and the Adviser believe that a change would benefit a Subadvised Fund and its shareholders. Applicants note that the Investment Advisory Agreements and any Sub-Advisory Agreement with an Affiliated Sub-Adviser (if any) will continue to be subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

7. Applicants assert that the requested disclosure relief would benefit shareholders of the Subadvised Funds because it would improve the Adviser's ability to negotiate the fees paid to Sub-Advisers. Applicants state that the Adviser may be able to negotiate rates that are below a Sub-Adviser's "posted" amounts, if the Adviser is not required to disclose the Sub-Advisers' fees to the public. Applicants submit that the requested relief will encourage Sub-Advisers to negotiate lower subadvisory fees with the Adviser if the lower fees are not required to be made public.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Subadvised Fund may rely on the order requested herein, the operation of the Subadvised Fund in the manner described in this application will be approved by a majority of the Subadvised Fund's outstanding voting securities as defined in the Act or, in the case of a Subadvised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder before such Subadvised Fund's shares are offered to the public.

2. The prospectus for each Subadvised Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. In addition, each Subadvised Fund will hold itself out to the public as employing a Multi-Manager Structure. The prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. Within ninety days of the hiring of a new Sub-Adviser, shareholders of the relevant Subadvised Fund will be furnished all information about the new Sub-Adviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in disclosure caused by the addition of a new Sub-Adviser. To meet this obligation, each Subadvised Fund will provide its shareholders, within 90 days of the hiring of a new Sub-Adviser, an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Subadvised Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

7. Whenever a Sub-Adviser change is proposed for a Subadvised Fund with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that the change is in the best interests of the Subadvised Fund and its shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Sub-Adviser derives an inappropriate advantage.

8. Whenever a Sub-Adviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

9. The Adviser will provide general management services to each Subadvised Fund, including overall supervisory responsibility for the general management and investment of the Subadvised Fund's assets and, subject to review and approval of the Board, will: (a) Set the Subadvised Fund's overall investment strategies; (b) evaluate, select and recommend Sub-Advisers to manage all or a portion of the Subadvised Fund's assets; (c) allocate and, when appropriate, reallocate the Subadvised Fund's assets among Sub-Advisers; (d) monitor and evaluate the Sub-Advisers' performance; and (e) implement procedures reasonably designed to ensure that Sub-Advisers comply with the Subadvised Fund's investment objective, policies and restrictions.

10. No trustee or officer of a Subadvised Fund or director or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Sub-Adviser except for (a) ownership of interests in the Adviser or any entity that controls, is controlled by or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by or is under common control with a Sub-Adviser.

11. Each Subadvised Fund will disclose in its registration statement the Aggregate Fee Disclosure.

12. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

13. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per Subadvised Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

14. For Subadvised Funds that pay fees to a Sub-Adviser directly from Fund assets, any changes to a Sub-Advisory Agreement that would result in an increase in the total management and advisory fees payable by a Subadvised Fund will be required to be approved by the shareholders of the Subadvised Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20758 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65079; File No. SR–BATS–2011–026]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend Pilot Program Related to Clearly Erroneous Execution Reviews

August 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2011, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to extend a pilot program previously approved by the Commission related to Rule 11.17, entitled "Clearly Erroneous Executions."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions, Rule 11.17. The rule, explained in further detail below, is currently operating as a pilot program set to expire on the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[3] The Exchange proposes to extend the pilot program to January 31, 2012.

On September 10, 2010, the Commission approved, on a pilot basis, changes to BATS Rule 11.17 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[4] The Exchange also adopted additional changes to Rule 11.17 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.17.[5] The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should be approved to continue on a pilot basis.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[7] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 64235 (April 7, 2011), 76 FR 20791 (April 13, 2011) (SR–BATS–2011–010).

[4] Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR–BATS–2010–016).

[5] *Id.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

Exchange believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the pilot program to continue uninterrupted and help ensure uniformity among the national securities exchanges and FINRA with respect to the treatment of clearly erroneous transactions.[10] Accordingly, the Commission waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BATS–2011–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2011–026. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BATS–2011–026 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20701 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65095; File No. SR–NSX–2011–08]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Extend Pilot Program Regarding Trading Pauses in Individual Securities Due to Extraordinary Market Volatility

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 2011, National Stock Exchange, Inc. filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

National Stock Exchange, Inc. ("NSX®" or "Exchange") is proposing to amend its rules to extend a certain pilot program regarding trading pauses in individual securities due to extraordinary market volatility.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com*, at the principal office of the Exchange, *http://www.sec.gov*, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

With this rule change, the Exchange is proposing to extend a pilot program currently in effect regarding trading pauses in individual securities due to extraordinary market volatility under NSX Rule 11.20B. Currently, unless otherwise extended or approved permanently, this pilot program will expire on August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies to the Circuit Breaker Securities as defined in Commentary .05 of Rule 11.20. The instant rule filing proposes an extension to the pilot program until January 31, 2012.

NSX Rule 11.20B (Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) was approved by the Securities and Exchange Commission (the "Commission") on June 10, 2010 on a pilot basis to end on December 10, 2010.[3] The pilot program end date was subsequently extended until April 11, 2011.[4] Similar rule changes were adopted by other markets in the national market system in a coordinated manner. As the Exchange noted in its filing to adopt NSX Rule 11.20B, during the pilot period, the Exchange, in conjunction with other markets in the national market system, would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities. NSX Rule 11.20B was expanded to include additional exchange traded products on September 10, 2010.[5] The pilot program end date was further extended to August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted applies.[6] The Exchange, in consultation with the Commission and other markets, has determined that the duration of this pilot program should be extended until January 31, 2012. Accordingly, pursuant to the instant rule filing, the expiration date of the pilot program referenced in Commentary .05 to Rule 11.20B is proposed to be changed from "August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies to the Circuit Breaker Securities as defined in Commentary .05 of Rule 11.20" to "January 31, 2012".

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) and Section 11A of the Securities Exchange Act of 1934[7] (the "Act"), in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed, among other things, to promote clarity, transparency and full disclosure, in so doing, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to maintain fair and orderly markets and protect investors and the public interest. Moreover, the proposed rule change is not discriminatory in that it uniformly applies to all ETP Holders. The Exchange believes that the extension of the pilot program will promote uniformity among markets with respect to trading pauses.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change as operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[3] See Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–NSX–2010 05).

[4] See Securities Exchange Act Release No. 63512 (December 9, 2010), 75 FR 78786 (December 16, 2010) (SR–NSX–2010–17).

[5] See Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR–NSX–2010–08).

[6] See Securities Exchange Act Release No. 34–64213 (April 6, 2011), 76 FR 20409 (April 12, 2011) (SR–NSX–2011–04).

[7] 15 U.S.C. 78f(b) and 15 U.S.C. 78k–1, respectively.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NSX–2011–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NSX–2011–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NSX–2011–08 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20736 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65094; File No. SR–NASDAQ–2011–11]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period of the Trading Pause for NMS Stocks

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2011, The NASDAQ Stock Market LLC, ("Exchange"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of the trading pause for individual stocks contained in the Standard & Poor's 500 Index, Russell 1000 Index, and specified Exchange Traded Products that experience a price change of 10% or more during a five-minute period, so that the pilot will now expire on January 31, 2012.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

4120. Trading Halts

(a) Authority to Initiate Trading Halts or Pauses

In circumstances in which Nasdaq deems it necessary to protect investors and the public interest, Nasdaq, pursuant to the procedures set forth in paragraph (c):

(1)–(10) No change.

(11) Shall, between 9:45 a.m. and 3:35 p.m., or in the case of an early scheduled close, 25 minutes before the close of trading, immediately pause trading for 5 minutes in any Nasdaq-listed security when the price of such security moves a percentage specified below within a 5-minute period.

(A) The price move shall be 10% or more with respect to securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products;

(B) The price move shall be 30% or more with respect to all NMS stocks not subject to section (a)(i) of this Rule with a price equal to or greater than $1; and

(C) The price move shall be 50% or more with respect to all NMS stocks not subject to section (a)(i) of this Rule with a price less than $1.

The determination that the price of a stock is equal to or greater than $1 under paragraph (a)(11)(B) above or less than $1 under paragraph (a)(11)(C) above shall be based on the closing price on the previous trading day, or, if no closing price exists, the last sale reported to the Consolidated Tape on the previous trading day.

At the end of the trading pause, Nasdaq will re-open the security using the Halt Cross process set forth in Nasdaq Rule 4753. In the event of a significant imbalance at the end of a trading pause, Nasdaq may delay the re-opening of a security.

Nasdaq will issue a notification if it cannot resume trading for a reason other than a significant imbalance.

Price moves under this paragraph will be calculated by changes in each consolidated last-sale price disseminated by a network processor over a five minute rolling period measured continuously. Only regular way in-sequence transactions qualify for use in calculations of price moves. Nasdaq can exclude a transaction price from use if it concludes that the transaction price resulted from an erroneous trade.

If a trading pause is triggered under this paragraph, Nasdaq shall immediately notify the single plan processor responsible for consolidation of information for the security pursuant to Rule 603 of Regulation NMS under the Securities Exchange Act of 1934. If a primary listing market issues an individual stock trading pause, Nasdaq will pause trading in that security until trading has resumed on the primary listing market or notice has been received from the primary listing market that trading may resume. If the primary listing market does not reopen within 10 minutes of notification of a trading pause, Nasdaq may resume trading the security.

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The provisions of this paragraph shall be in effect during a pilot set to end on [the earlier of]*January 31, 2012*[August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies].

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 10, 2010, the Commission granted accelerated approval, for a pilot period to end December 10, 2010, for a proposed rule change submitted by the Exchange, together with related rule changes of the BATS Exchange, Inc., NASDAQ OMX BX, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, New York Stock Exchange LLC ("NYSE"), NYSE Amex LLC ("NYSE Amex"), NYSE Arca, Inc. ("NYSE Arca"), and National Stock Exchange, Inc. (collectively, the "Exchanges"), to pause trading during periods of extraordinary market volatility in S&P 500 stocks.[3] The rules require the Listing Markets[4] to issue five-minute trading pauses for individual securities for which they are the primary Listing Market if the transaction price of the security moves ten percent or more from a price in the preceding five-minute period. The Listing Markets are required to notify the other Exchanges and market participants of the imposition of a trading pause by immediately disseminating a special indicator over the consolidated tape. Under the rules, once the Listing Market issues a trading pause, the other Exchanges are required to pause trading in the security on their markets. On September 10, 2010, the Commission approved the respective rule filings of the Exchanges to expand application of the pilot to the Russell 1000® Index and specified Exchange Traded Products.[5] On December 7, 2010, the Exchange filed an immediately effective filing to extend the existing pilot program for four months, so that the pilot would expire on April 11, 2011.[6] On March 31, 2011, the Exchange filed an immediately effective filing to extend the pilot period an additional four months, so that the pilot would expire on August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[7] On June 23, 2011, the Commission approved the expansion of the pilot to all NMS stocks, but with different pause-triggering thresholds.[8]

The Exchange believes that the pilot program has been successful in reducing the negative impacts of sudden, unanticipated price movements in the securities covered by the pilot. The Exchange also believes that an additional extension of the pilot is warranted so that it may continue to assess whether circuit breakers are the best means to reduce the negative impacts of sudden, unanticipated price movements or whether alternative mechanisms would be more effective in achieving this goal.

Accordingly, the Exchange is filing to further extend the pilot program until January 31, 2012 and remove language from the rule concerning the "limit up/limit down" mechanism.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[9] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[10] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The

[3] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–NASDAQ–2010–061).

[4] The term "Listing Markets" refers collectively to NYSE, NYSE Amex, NYSE Arca, and the Exchange.

[5] *See* Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR–NASDAQ–2010–079).

[6] *See* Securities Exchange Act Release No. 63505 (December 9, 2010), 75 FR 78302 (December 15, 2010) (SR–NASDAQ–2010–162).

[7] *See* Securities Exchange Act Release No. 64174 (April 4, 2011), 76 FR 19819 (April 8, 2011) (SR–NASDAQ–2011–042).

[8] *See* Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (SR–NASDAQ–2011–067, *et al.*).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change as operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NASDAQ–2011–115 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NASDAQ–2011–115. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NASDAQ–2011–115 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20735 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65093; File No. SR–BX–2011–055]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period of the Trading Pause for NMS Stocks

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2011, NASDAQ OMX BX, Inc. ("Exchange"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of the trading pause for individual stocks contained in the Standard & Poor's 500 Index, Russell 1000 Index, and specified Exchange Traded Products that experience a price change of 10% or more during a five-minute period, so that the pilot will now expire on January 31, 2012.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

IM–4120–3. Circuit Breaker Securities Pilot

The provisions of paragraph (a)(11) of this Rule shall be in effect during a pilot set to end on [the earlier of] *January 31, 2012* [August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies]. During the pilot, the term "Circuit Breaker Securities" shall mean all NMS stocks.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 10, 2010, the Commission granted accelerated approval, for a pilot period to end December 10, 2010, for a proposed rule change submitted by the Exchange, together with related rule changes of the BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, The NASDAQ Stock Market LLC ("NASDAQ"), New York Stock Exchange LLC ("NYSE"), NYSE Amex LLC ("NYSE Amex"), NYSE Arca,

Inc. ("NYSE Arca"), and National Stock Exchange, Inc. (collectively, the "Exchanges"), to pause trading during periods of extraordinary market volatility in S&P 500 stocks.[3] The rules require the Listing Markets[4] to issue five-minute trading pauses for individual securities for which they are the primary Listing Market if the transaction price of the security moves ten percent or more from a price in the preceding five-minute period. The Listing Markets are required to notify the other Exchanges and market participants of the imposition of a trading pause by immediately disseminating a special indicator over the consolidated tape. Under the rules, once the Listing Market issues a trading pause, the other Exchanges are required to pause trading in the security on their markets. On September 10, 2010, the Commission approved the respective rule filings of the Exchanges to expand application of the pilot to the Russell 1000® Index and specified Exchange Traded Products.[5] On December 7, 2010, the Exchange filed an immediately effective filing to extend the existing pilot program for four months, so that the pilot would expire on April 11, 2011.[6] On March 31, 2011, the Exchange filed an immediately effective filing to extend the pilot period an additional four months, so that the pilot would expire on August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[7] On June 23, 2011, the Commission approved the expansion of the pilot to all NMS stocks, but with different pause-triggering thresholds.[8]

The Exchange believes that the pilot program has been successful in reducing the negative impacts of sudden, unanticipated price movements in the securities covered by the pilot. The Exchange also believes that an additional extension of the pilot is warranted so that it may continue to assess whether circuit breakers are the best means to reduce the negative impacts of sudden, unanticipated price movements or whether alternative mechanisms would be more effective in achieving this goal.

Accordingly, the Exchange is filing to further extend the pilot program until January 31, 2012 and remove language from the rule concerning the "limit up/limit down" mechanism.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[9] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[10] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change as operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File

[3] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BX–2010–037).

[4] The term "Listing Markets" refers collectively to NYSE, NYSE Amex, NYSE Arca, and NASDAQ.

[5] *See* Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR–BX–2010–044).

[6] *See* Securities Exchange Act Release No. 63527 (December 10, 2010), 75 FR 78781 (December 16, 2010) (SR–BX–2010–088).

[7] *See* Securities Exchange Act Release No. 64176 (April 4, 2011), 76 FR 19821 (April 8, 2011) (SR–BX–2011–018).

[8] *See* Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (SR–BX–2011–025, *et al.*).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

No. SR–BX–2011–055 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BX–2011–055. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BX–2011–055 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20734 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65087; File No. SR–ISE–2011–47]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Tier-Based Rebates for Qualified Contingent Cross Orders and Solicitation Orders

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 27, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The ISE is proposing to adopt tier-based rebates for Qualified Contingent Cross (QCC) orders and Solicitation orders. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to adopt rebates to encourage members to submit greater numbers of QCC orders and Solicitation orders to the Exchange. With this proposed rule change, once a Member reaches a certain volume threshold in QCC orders and/or Solicitation orders during a month, the Exchange will provide a rebate to that Member for all of its QCC and Solicitation traded contracts for that month. The proposed rebate will be paid to the Member entering a qualifying order, *i.e.*, a QCC order and/or a Solicitation order. Specifically, the Exchange proposes to adopt the following thresholds and corresponding per contract rebate:

Originating contract sides	Rebate per contract
0–1,999,999	$0.00
2,000,000–3,499,999	0.03
3,500,000–3,999,999	0.05
4,000,000+	0.07

The proposed rebate shall apply to QCC orders and Solicitation orders in all symbols traded on the Exchange. Additionally, the proposed threshold levels are based on the originating side so if, for example, a Member submits a Solicitation order for 1,000 contracts, all 1,000 contracts shall be counted to reach the established threshold even if the order is broken up and executed with multiple counter parties.

Further, the Exchange currently assesses per contract transaction charges and credits to market participants that add or remove liquidity from the Exchange ("maker/taker fees") in a select number of options classes (the "Select Symbols").[3] For Solicitation orders in the Select Symbols, the Exchange currently provides a rebate of $0.15 to contracts that do not trade with the contra order in the Solicited Order Mechanism. The Exchange does not propose any change to that rebate and that rebate will continue to apply.

The Exchange has designated this proposal to be effective on August 1, 2011.

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the

[3] Options classes subject to maker/taker fees are identified by their ticker symbol on the Exchange's Schedule of Fees.

Act[4] in general, and furthers the objectives of Section 6(b)(4) of the Act[5] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members. The Exchange believes that the proposed fee changes will generally allow the Exchange and its Members to better compete for order flow and thus enhance competition. More specifically, the Exchange believes that its proposal to adopt volume-based rebates is reasonable as it will encourage Members to direct their QCC and Solicitation orders to the Exchange instead of to a competing exchange. The Exchange notes that it has previously adopted other incentive programs to promote and encourage growth in specific business areas. For example, the Exchange has lower fees (or no fees) for customer orders;[6] and tiered pricing that reduces rates for market makers based on the level of business they bring to the Exchange.[7] This proposed rule change targets yet another segment in which the Exchange seeks to garnish greater order flow. The Exchange also believes that adopting the proposed rebates is reasonable because it is designed to give Members who trade a lot on the Exchange a benefit by way of a lower transaction fee. As noted above, once a Member reaches the established threshold, all of the trading activity in the specified order type by that Member will be subject to the proposed rebate.

The Exchange also believes the proposal to adopt the rebates is equitable because it would uniformly apply to all Members engaged in QCC and Solicitation trading in all option classes traded on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] For example, the customer fee is $0.00 per contract for products other than Singly Listed Indexes, Singly Listed ETFs and FX Options. For Singly Listed Options, Singly Listed ETFs and FX Options, the customer fee is $0.18 per contract. The Exchange also currently has an incentive plan in place for certain specific FX Options which has its own pricing. *See* ISE Schedule of Fees.

[7] The Exchange currently has a sliding scale fee structure that ranges from $0.01 per contract to $0.18 per contract depending on the level of volume a Member trades on the Exchange in a month.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2011–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2011–47. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2011–47, and should be submitted on or before September 6, 2011.

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20733 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65080; File No. SR–CHX–2011–23]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Program Relating to Individual Securities Circuit Breakers

August 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on August 8, 2011, the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CHX. CHX has filed this proposal pursuant to Exchange Act Rule 19b–4(f)(6)[3] which is effective upon filing with the Commission.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend its rules to extend the pilot program relating to individual securities circuit breakers. The text of this proposed rule change is available on the Exchange's Web site at (*http://www.chx.com*) and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In June, 2010, CHX obtained Commission approval to amend Article 20, Rule 2 to create circuit breakers in individual securities on a pilot basis to end on December 10, 2010.[4] Shortly thereafter, in September, the Commission approved another amendment to Article 20, Rule 2 to add securities included in the Russell 1000® Index ("Russell 1000") and certain specified Exchange Traded Products ("ETP") to the pilot rule.[5] This program was subsequently extended until April 11, 2011[6] and was again extended until August 11, 2011.[7] Then, in June, 2011, the Commission approved another amendment to Article 20, Rule 2 to add all NMS stocks to the pilot rule.[8]

The proposed rule change merely extends the duration of the pilot program to January 31, 2012. Extending the pilot in this manner will allow the Commission more time to consider the impact of the pilot program.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"), which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change as operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–CHX–2011–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

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[4] See Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) approving SR–CHX–2010–10.

[5] See Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) approving SR–CHX–2010–14.

[6] See Securities Exchange Act Release No. 34–63498 (December 9, 2010), 75 FR 78310 December 15, 2010) approving SR–CHX–2010–24.

[7] See Securities Exchange Act Release No. 64203 (April 6, 2011), 75 FR 20393 April 12, 2011) approving SR–CHX–2011–05.

[8] See Securities Exchange Act Release No. 64735 (June 23, 2011), 75 FR 38243 (June 29, 2011) approving SR–CHX–2011–09.

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File No. SR–CHX–2011–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CHX–2011–23 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20732 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65092; File No. SR–EDGX–2011–23]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 11.14 To Extend the Operation of the Single Stock Circuit Breaker Pilot Program Until January 31, 2012

August 10, 2011.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 5, 2011, the EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend EDGX Rule 11.14 to extend the operation of the single stock circuit breaker pilot program (the "Pilot") pursuant to the Rule until January 31, 2012. The text of the proposed rule change is available on the Exchange's Web site at *http://www.directedge.com*, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend EDGX Rule 11.14 to extend the operation of a Pilot that allows the Exchange to provide for uniform market-wide trading pause standards for NMS stocks through January 31, 2012.

Background

Pursuant to Rule 11.14, the Exchange is allowed to pause trading in any NMS stock when the primary listing market for such stock issues a trading pause in such NMS stock. The Exchange will pause trading in such security until trading has resumed on the primary listing market.

EDGX Rule 11.14 was approved by the Commission on June 10, 2010 on a Pilot basis to end on December 10, 2010.[4] The Pilot was subsequently extended until April 11, 2011.[5] The Pilot was then further extended through the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[6]

In its initial filing to adopt EDGX Rule 11.14, the Exchange stated that the original Pilot list of securities was all securities included in the S&P 500® Index ("S&P 500"). The Exchange also noted in that filing that it would continue to assess whether additional securities needed to be added or removed from the Pilot list and whether the parameters of the rule needed to be modified to accommodate trading characteristics of different securities. As noted in comment letters to the initial filing to adopt EDGX Rule 11.14, concerns were raised that including only securities in the S&P 500 in the Pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the Pilot.

In response to these concerns, various exchanges and national securities associations collectively determined to expand the list of Pilot securities to include securities in the Russell 1000 and specified ETPs to the Pilot beginning in September 2010.[7] The Exchange believed that adding these securities would address concerns that the scope of the Pilot may be too narrow, while at the same time recognizing that during the Pilot period, the markets would continue to review whether and when to add additional securities to the Pilot and whether the parameters of the rule should be adjusted for different securities.

As a result of consulting with other markets and the staff of the Commission, the Exchange subsequently included all NMS stocks within the Pilot that were not already included therein.[8] In particular, the additional stocks were those not

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] See Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–EDGX–2010–01), 75 FR 34186 (June 16, 2010).

[5] See Securities Exchange Act Release No. 63507 (December 9, 2010) (SR–EDGX–2010–22), 75 FR 78787 (December 16, 2010).

[6] See Securities Exchange Act Release No. 64205 (April 6, 2011) (SR–EDGX–2011–10), 76 FR 20417 (April 12, 2011).

[7] See Securities Exchange Act Release No. 62884 (September 10, 2010) (SR–EDGX–2010–05), 75 FR 56618 (September 16, 2010).

[8] See Securities Exchange Act Release No. 64375 (June 23, 2011) (SR–EDGX–2011–14), 76 FR 38243 (June 29, 2011).

included in the S&P 500, Russell 1000 Index, or specified ETPs, and therefore were more likely to be less liquid securities or securities with lower trading volumes. The Exchange stated that it would continue to assess whether the parameters for invoking a trading pause continued to be appropriate and whether the parameters should be modified.

The Exchange believes that an extension of the Pilot through January 31, 2012 would continue to promote uniformity regarding decisions to pause trading and continue to reduce the negative impacts of sudden, unanticipated price movements in NMS stocks. The Exchange believes that the Pilot is working well, that it has been infrequently invoked during the past four months, and that the Exchange will further assess the effect of the Pilot on the market or whether other initiatives should be adopted in lieu of the current Pilot. Therefore, the Exchange requests an extension of the Pilot through January 31, 2012.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[9] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[10] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements. The Exchange believes that the Pilot is working well, that it has been infrequently invoked during the past four months, and that the extension of the Pilot will allow the Exchange to further assess the effect of the Pilot on the market or whether other initiatives should be adopted in lieu of the current Pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–EDGX–2011–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–EDGX–2011–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–EDGX–2011–23 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20726 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65091; File No. SR–EDGA–2011–24]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGA Rule 11.14 To Extend the Operation of the Single Stock Circuit Breaker Pilot Program Until January 31, 2012

August 10, 2011.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 5, 2011, the EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend EDGA Rule 11.14 to extend the operation of the single stock circuit breaker pilot program (the "Pilot") pursuant to the Rule until January 31, 2012. The text of the proposed rule change is available on the Exchange's Web site at *http://www.directedge.com*, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend EDGA Rule 11.14 to extend the operation of a Pilot that allows the Exchange to provide for uniform market-wide trading pause standards for NMS stocks through January 31, 2012.

Background

Pursuant to Rule 11.14, the Exchange is allowed to pause trading in any NMS stock when the primary listing market for such stock issues a trading pause in such NMS stock. The Exchange will pause trading in such security until trading has resumed on the primary listing market.

EDGA Rule 11.14 was approved by the Commission on June 10, 2010 on a Pilot basis to end on December 10, 2010.[4] The Pilot was subsequently extended until April 11, 2011.[5] The Pilot was then further extended through the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[6]

In its initial filing to adopt EDGA Rule 11.14, the Exchange stated that the original Pilot list of securities was all securities included in the S&P 500® Index ("S&P 500"). The Exchange also noted in that filing that it would continue to assess whether additional securities needed to be added or removed from the Pilot list and whether the parameters of the rule needed to be modified to accommodate trading characteristics of different securities. As noted in comment letters to the initial filing to adopt EDGA Rule 11.14, concerns were raised that including only securities in the S&P 500 in the Pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the Pilot.

In response to these concerns, various exchanges and national securities associations collectively determined to expand the list of Pilot securities to include securities in the Russell 1000 and specified ETPs to the Pilot beginning in September 2010.[7] The Exchange believed that adding these securities would address concerns that the scope of the Pilot may be too narrow, while at the same time recognizing that during the Pilot period, the markets would continue to review whether and when to add additional securities to the Pilot and whether the parameters of the rule should be adjusted for different securities.

As a result of consulting with other markets and the staff of the Commission, the Exchange subsequently included all NMS stocks within the Pilot that were not already included therein.[8] In particular, the additional stocks were those not included in the S&P 500, Russell 1000 Index, or specified ETPs, and therefore were more likely to be less liquid securities or securities with lower trading volumes. The Exchange stated that it would continue to assess whether the parameters for invoking a trading pause continued to be appropriate and whether the parameters should be modified.

The Exchange believes that an extension of the Pilot through January 31, 2012 would continue to promote uniformity regarding decisions to pause trading and continue to reduce the negative impacts of sudden, unanticipated price movements in NMS stocks. The Exchange believes that the Pilot is working well, that it has been infrequently invoked during the past four months, and that the Exchange will further assess the effect of the Pilot on the market or whether other initiatives should be adopted in lieu of the current Pilot. Therefore, the Exchange requests an extension of the Pilot through January 31, 2012.

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] See Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–EDGA–2010–01), 75 FR 34186 (June 16, 2010).

[5] See Securities Exchange Act Release No. 63514 (December 9, 2010) (SR–EDGA–2010–23), 75 FR 78783 (December 16, 2010).

[6] See Securities Exchange Act Release No. 64204 (April 6, 2011) (SR–EDGA–2011–11), 76 FR 20394 (April 12, 2011).

[7] See Securities Exchange Act Release No. 62884 (September 10, 2010) (SR–EDGA–2010–05), 75 FR 56618 (September 16, 2010).

[8] See Securities Exchange Act Release No. 64375 (June 23, 2011) (SR–EDGA–2011–15), 76 FR 38243 (June 29, 2011).

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[9] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[10] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements. The Exchange believes that the Pilot is working well, that it has been infrequently invoked during the past four months, and that the extension of the Pilot will allow the Exchange to further assess the effect of the Pilot on the market or whether other initiatives should be adopted in lieu of the current Pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–EDGA–2011–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–EDGA–2011–24. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–EDGA–2011–24 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20725 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65090; File No. SR–NYSE–2011–40]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 80C, Which Provides for Trading Pauses in Individual Securities Due to Extraordinary Market Volatility, To Extend the Pilot Until January 31, 2012

August 10, 2011.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 5, 2011, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 80C, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of August 11, 2011, until January 31, 2012. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 80C, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of August 11, 2011,[4] until January 31, 2012.

NYSE Rule 80C requires the Exchange to pause trading in an individual security listed on the Exchange if the price moves by a specified percentage as compared to prices of that security in the preceding five-minute period during a trading day, which period is defined as a "Trading Pause." The pilot was developed and implemented as a market-wide initiative by the Exchange and other national securities exchanges in consultation with the Commission staff and is currently applicable to all NMS stocks and specified exchange-traded products.[5]

The extension proposed herein would allow the pilot to continue to operate without interruption while the Exchange, other national securities exchanges and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the change proposed herein meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements. Additionally, extension of the pilot until January 31, 2012 would allow the pilot to continue to operate without interruption while the Exchange and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which

[4] *See* Securities Exchange Act Release No. 64254 (April 7, 2011), 76 FR 20767 (April 13, 2011) (SR–NYSE–2011–16).

[5] The Exchange notes that the other national securities exchanges and the Financial Industry Regulatory Authority have adopted the pilot in substantially similar form. *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (File Nos. SR–BATS–2010–014; SR–EDGA–2010–01; SR–EDGX–2010–01; SR–BX–2010–037; SR–ISE–2010–48; SR–NYSE–2010–39; SR–NYSEAmex–2010–46; SR–NYSEArca–2010–41; SR–NASDAQ–2010–061; SR–CHX–2010–10; SR–NSX–2010–05; and SR–CBOE–2010–047) and Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025). *See also* Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (File Nos. SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–ISE–2010–66; SR–NASDAQ–2010–079; SR–NYSE–2010–49; SR–NYSEAmex–2010–63; SR–NYSEArca–2010–61; and SR–NSX–2010–08 and Securities Exchange Act Release No. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033). *See also* Securities Exchange Act Release No. 63500 (December 9, 2010), 75 FR 78309 (December 15, 2010) (SR–NYSE–2010–81). A recent proposal to, among other things, expand the pilot to include all NMS stocks not already included therein will be implemented on August 8, 2011. *See* Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex–2011–32; SR–NYSEArca–2011–26; SR–NSX–2011–06; and SR–Phlx–2011–64).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) [13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSE–2011–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2011–40. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2011–40 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20724 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65089; File No. SR–NYSEAmex–2011–57]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Equities Rule 80C, Which Provides for Trading Pauses in Individual Securities Due to Extraordinary Market Volatility, To Extend the Pilot Until January 31, 2012

August 10, 2011.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 5, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Amex Equities Rule 80C, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of August 11, 2011, until January 31, 2012. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Amex Equities Rule 80C, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of August 11, 2011,[4] until January 31, 2012.

NYSE Amex Equities Rule 80C requires the Exchange to pause trading in an individual security listed on the Exchange if the price moves by a specified percentage as compared to prices of that security in the preceding five-minute period during a trading day, which period is defined as a "Trading Pause." The pilot was developed and implemented as a market-wide initiative by the Exchange and other national securities exchanges in consultation with the Commission staff and is currently applicable to all NMS stocks and specified exchange-traded products.[5]

The extension proposed herein would allow the pilot to continue to operate without interruption while the Exchange, other national securities exchanges and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the change proposed herein meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements. Additionally, extension of the pilot until January 31, 2012 would allow the pilot to continue to operate without interruption while the Exchange and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[4] See Securities Exchange Act Release No. 64206 (April 6, 2011), 76 FR 20418 (April 12, 2011) (SR–NYSEAmex–2011–23).

[5] The Exchange notes that the other national securities exchanges and the Financial Industry Regulatory Authority have adopted the pilot in substantially similar form. See Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (File Nos. SR–BATS–2010–014; SR–EDGA–2010–01; SR–EDGX–2010–01; SR–BX–2010–037; SR–ISE–2010–48; SR–NYSE–2010–39; SR–NYSEAmex–2010–46; SR–NYSEArca–2010–41; SR–NASDAQ–2010–061; SR–CHX–2010–10; SR–NSX–2010–05; and SR–CBOE–2010–047) and Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025). See also Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (File Nos. SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–ISE–2010–66; SR–NASDAQ–2010–079; SR–NYSE–2010–49; SR–NYSEAmex–2010–63; SR–NYSEArca–2010–61; and SR–NSX–2010–08 and Securities Exchange Act Release No. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033). See also Securities Exchange Act Release No. 63501 (December 9, 2010), 75 FR 78307 (December 15, 2010) (SR–NYSEAmex–2010–117). A recent proposal to, among other things, expand the pilot to include all NMS stocks not already included therein will be implemented on August 8, 2011. See Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex–2011–32; SR–NYSEArca–2011–26; SR–NSX–2011–06; and SR–Phlx–2011–64).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEAmex–2011–57 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEAmex–2011–57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEAmex–2011–57 and should be submitted on or September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20723 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65088; File No. SR–NYSEArca-2011–55]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.11, Which Provides for Trading Pauses in Individual Securities Due to Extraordinary Market Volatility, To Extend the Pilot Until January 31, 2012

August 10, 2011.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 5, 2011, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.11, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of August 11, 2011, until January 31, 2012. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 7.11, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of August 11, 2011,[4] until January 31, 2012.

NYSE Arca Equities Rule 7.11 requires the Exchange to pause trading in an individual security listed on the Exchange if the price moves by a specified percentage as compared to prices of that security in the preceding five-minute period during a trading day, which period is defined as a "Trading Pause." The pilot was developed and implemented as a market-wide initiative by the Exchange and other national securities exchanges in consultation with the Commission staff and is currently applicable to all NMS stocks and specified exchange-traded products.[5]

The extension proposed herein would allow the pilot to continue to operate

[4] See Securities Exchange Act Release No. 64209 (April 6, 2011), 76 FR 20422 (April 12, 2011) (SR–NYSEArca–2011–14).

[5] The Exchange notes that the other national securities exchanges and the Financial Industry Regulatory Authority have adopted the pilot in substantially similar form. See Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (File Nos. SR–BATS–2010–014; SR–EDGA–2010–01; SR–EDGX–2010–01; SR–BX–2010–037; SR–ISE–2010–48; SR–NYSE–2010–39; SR–NYSEAmex–2010–46; SR–NYSEArca–2010–41; SR–NASDAQ–2010–061; SR–CHX–2010–10; SR–NSX–2010–05; and SR–CBOE–2010–047) and Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025). See *also* Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (File Nos. SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–ISE–2010–66; SR–NASDAQ–2010–079; SR–NYSE–2010–49; SR–NYSEAmex–2010–63; SR–NYSEArca–2010–61; and SR–NSX–2010–08 and Securities Exchange Act Release No. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033). See *also* Securities Exchange Act Release No. 63496 (December 9, 2010), 75 FR 78285 (December 15, 2010) (SR–NYSEArca–2010–114). A recent proposal to, among other things, expand the pilot to include all NMS stocks not already included therein will be implemented on August 8, 2011. See Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex–2011–32; SR–NYSEArca–2011–26; SR–NSX–2011–06; and SR–Phlx–2011–64).

without interruption while the Exchange, other national securities exchanges and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the change proposed herein meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements. Additionally, extension of the pilot until January 31, 2012 would allow the pilot to continue to operate without interruption while the Exchange and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2011–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2011–55. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2011–55 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20722 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65077; File No. SR–BYX–2011–017]

Self-Regulatory Organizations; BATS Y–Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend Pilot Program Related to Clearly Erroneous Execution Reviews

August 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 8, 2011, BATS Y–Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to extend a pilot program related to Rule 11.17, entitled "Clearly Erroneous Executions."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions, Rule 11.17. The rule, explained in further detail below, is currently operating as a pilot program set to expire on the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[3] The Exchange proposes to extend the pilot program to January 31, 2012.

On October 4, 2010, the Exchange filed an immediately effective filing to adopt various rule changes to bring BYX Rules up to date with the changes that had been made to the rules of BATS Exchange, Inc., the Exchange's affiliate, while BYX's Form 1 Application to register as a national security exchange was pending approval. Such changes included changes to the Exchange's Rule 11.17, on a pilot basis, to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[4] The Exchange also adopted additional changes to Rule 11.17 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.17.[5] The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should be approved to continue on a pilot basis.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[7] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the pilot program to continue uninterrupted and help ensure uniformity among the national securities exchanges and FINRA with respect to the treatment of clearly erroneous transactions.[10] Accordingly, the Commission waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 64236 (April 7, 2011), 76 FR 20739 (April 13, 2011) (SR–BYX–2011–006).

[4] Securities Exchange Act Release No. 63097 (October 13, 2010); 75 FR 64767 (October 20, 2010) (SR–BYX–2010–002).

[5] *Id.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self- regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BYX–2011–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2011–017. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BYX–2011–017 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20711 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65086; File No. SR–FINRA–2011–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Position Limit for Options on the Standard and Poor's Depositary Receipts Trust

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on July 29, 2011, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 2360 (Options), Supplementary Material .03 to increase the position limit for options on the Standard and Poor's Depositary Receipts Trust ("SPY").

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend FINRA Rule 2360, Supplementary Material .03 to increase the position limit applicable to options on the Standard and Poor's Depositary Receipts Trust, which trade under the symbol SPY, from 300,000 to 900,000 contracts[4] to conform to a recent rule change by other self-regulatory organizations[5] as well as [sic] the reasons discussed below.

Currently, SPY options have a position limit of only 300,000 contracts on the same side of the market while Power Shares QQQ Trust, based on the Nasdaq 100 Index® ("QQQ") options, which are comparable to SPY options but have lesser volume,[6] have a position limit of 900,000 contracts on the same side of the market. Given the high volume and continuous demand for trading SPY options, FINRA believes that the current position limit of 300,000 contracts is inadequate, and that such options should, like options on QQQ, have a position limit of 900,000 contracts.

The position limit on SPY options has remained flat for more than five years,

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The exercise limits on SPY options set forth in FINRA Rule 2360(b)(4), which is not amended by this filing, but which incorporate by reference options position limits, would correspondingly increase to 900,000 contracts.

[5] *See* Securities Exchange Act Release No. 64695 (June 17, 2011) 76 FR 36942 (June 23, 2011) (SEC order approving File No. SR–Phlx–2011–58); Securities Exchange Act Release No. 64760 (June 28, 2011) 76 FR 39143 (July 5, 2011) (Notice of Filing and Immediate Effectiveness of File No. SR–ISE–2011–34); Securities Exchange Act Release No. 64928 (July 20, 2011) (File No. SR–CBOE–2011–065); Securities Exchange Act Release No. 64966 (July 26, 2011) (File No. SR–NYSEAmex–2011–50); and Securities Exchange Act Release No. 64945 (July 21, 2011) (File No. SR–NYSEArca–2011–47).

[6] For example, options on SPYs, the most actively traded options in the U.S. in terms of volume, traded a total of 33,341,698 contracts across all exchanges from March 1, 2011 through March 16, 2011. In contrast, over the same time period options on the QQQ traded a total of 8,730,718 contracts (less than 26.2% of the volume of options on SPYs). In addition, for 2010, options on SPY had an average daily trading volume of 3.63 million contracts, while options on QQQs had an average daily trading volume of 963,502. *See supra* note 5 PHLX rule filing, at 36942.

despite the options being the most actively traded options for the last two years, and is no longer sufficient for optimal trading and hedging purposes. SPY options are used by large institutions and traders as a means to invest in or hedge the overall direction of the market. The restrictive option position limit prevents large customers, such as mutual funds and pension funds, from using options to gain meaningful exposure to, and hedging protection through the use of, SPY options. Restrictive options position limits also can result in lost liquidity in both the options market and the equity market. The proposed position limit increase will remedy this situation to the benefit of large as well as retail traders, investors, and public customers. FINRA also believes that increasing position and exercise limits for SPY options would lead to a more liquid and competitive market environment that would benefit customers interested in this product.

In addition, FINRA believes that the options on SPY position and exercise limits, at their current levels, no longer serve their stated purpose. There has been a steadfast and significant increase over the last decade in the overall volume of exchange-traded options; position limits, however, have not kept up with the volume. Part of this volume is attributable to a corresponding increase in the number of overall market participants, which has, in turn, brought about additional depth and increased liquidity in exchange-traded options.[7]

FINRA believes that the existing surveillance procedures and reporting requirements at FINRA,[8] the options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. These procedures use daily monitoring of market movements by automated surveillance techniques to identify unusual activity in both options and underlying stocks.[9]

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G.[10] Options positions are part of any reportable positions and cannot legally be hidden. Moreover, the previously noted Rule 2360(b)(5) requirement that members must file reports with FINRA for any customer who held aggregate large long or short positions of any single class for the previous day will continue to serve as an important part of FINRA's surveillance efforts.

FINRA believes that the current financial requirements imposed by FINRA and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large unhedged position in an option, particularly on SPY. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by it or by its customer. It also should be noted that FINRA has the authority under FINRA Rule 4210(f)(8)(A) to impose a higher margin requirement upon a member when FINRA determines a higher requirement is warranted. In addition, the Commission's net capital rule, Rule 15c3–1 under the Act,[11] imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement.

Finally, FINRA believes that while the position limit on options on QQQs, which as noted are similar to SPY options, has been gradually expanded from 75,000 contracts to the current level of 900,000 contracts, there have been no adverse affects on the market as a result of this position limit increase. Likewise, there have been no adverse affects on the market from expanding the position limit for SPY options from 75,000 contracts to the current level of 300,000 contracts.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule filing promotes consistent regulation by harmonizing FINRA's position limits for options on SPYs with those of the other self-regulatory organizations. In addition, FINRA believes this proposal will be beneficial to large market makers (which generally have the greatest potential and actual ability to provide liquidity and depth in this product), as well as retail traders, investors and public customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

[7] The Commission has previously observed that: "Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes." *See* Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276, 278 (January 5, 1998) (File No. SR–CBOE–97–11) (order approving increased OEX position and exercise limits).

[8] *See* FINRA Rule 2360(b)(5) for the reporting requirements.

[9] These procedures have been effective for the surveillance of SPY options trading and will continue to be employed.

[10] 17 CFR 240.13d–1.

[11] 17 CFR 240.15c3–1.

[12] 15 U.S.C. 78*o*–3(b)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because increasing position and exercise limits for SPY options would lead to a more liquid and competitive market environment that would benefit customers interested in this product. Additionally, it would allow FINRA to seamlessly continue to offer traders and the investing public the ability to use this product as an effective hedging and trading vehicle. Lastly, it will enable FINRA's position and exercise limits for SPDR® options to be consistent with those of other exchanges that have already adopted the higher position and exercise limits. Therefore, the Commission designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2011–036 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2011–036. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–FINRA–2011–036 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20707 Filed 8–15–11; 8:45 am]

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[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that FINRA has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65081; File No. SR–BATS–2011–027]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend Pilot Program Related to Trading Pauses Due to Extraordinary Market Volatility

August 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2011, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to extend a pilot program previously approved by the Commission related to Rule 11.18, entitled "Trading Halts Due to Extraordinary Market Volatility."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's rule related to individual stock circuit breakers, which is contained in Rule 11.18(d) and Interpretation and Policy .05 to Rule 11.18. The rule, explained in further detail below, is currently operating as a pilot program set to expire on the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies. The Exchange proposes to extend the pilot program to January 31, 2012.

On June 10, 2010, the Commission approved on a pilot basis changes to BATS Rule 11.18 to provide for uniform market-wide trading pause standards for individual securities in the S&P 500® Index that experience rapid price movement.[3] Later, the Exchange and other markets proposed extension of the trading pause standards on a pilot basis to individual securities in the Russell 1000® Index and specified Exchange Traded Products, which changes the Commission approved on September 10, 2010.[4] The pilot program relating to trading pause standards has been extended twice since.[5] More recently, the Exchange proposed expansion of the pilot program to apply to all NMS stocks.[6] This expansion was approved on June 23, 2011.[7]

The Exchange believes the benefits to market participants from the individual stock trading pause rule should be continued on a pilot basis.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[9] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule change is also consistent with Section 11A(a)(1) of the Act [10] in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) [16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change as operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–BATS–2011–027 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

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[3] See Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BATS–2010–014).

[4] See Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR–BATS–2010–018).

[5] See Securities Exchange Act Release No. 63497 (December 9, 2010), 75 FR 78315 (December 15, 2010) (SR–BATS–2010–037); Securities Exchange Act Release No. 64207 (April 6, 2011), 76 FR 20424 (April 12, 2011) (SR–BATS–2011–011).

[6] See Securities Exchange Act Release No. 64435 (May 6, 2011), 76 FR 27684 (May 12, 2011) (SR–BATS–2011–016).

[7] See Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex–2011–32; SR–NYSEArca–2011–26; SR–NSX–2011–06; SR–Phlx–2011–64).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

All submissions should refer to File No. SR–BATS–2011–027. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2011–027 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20702 Filed 8–15–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65082; File No. SR–BYX–2011–018]

Self-Regulatory Organizations; BATS Y–Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend Pilot Program Related to Trading Pauses Due to Extraordinary Market Volatility

August 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2011, BATS Y–Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to extend a pilot program related to Rule 11.18, entitled "Trading Halts Due to Extraordinary Market Volatility."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's rule related to individual stock circuit breakers, which is contained in Rule 11.18(d) and Interpretation and Policy .05 to Rule 11.18. The rule, explained in further detail below, is currently operating as a pilot program set to expire on the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies. The Exchange proposes to extend the pilot program to January 31, 2012.

On October 4, 2010, the Exchange filed an immediately effective filing to adopt various rule changes to bring BYX Rules up to date with the changes that had been made to the rules of BATS Exchange, Inc., the Exchange's affiliate, while BYX's Form 1 Application to register as a national securities exchange was pending approval. Such changes included changes to the Exchange's Rule 11.18, on a pilot basis, to provide for uniform market-wide trading pause standards for individual securities in the S&P 500® Index, the Russell 1000® Index and specified Exchange Traded Products that experience rapid price movement.[3] The pilot program relating to trading pause standards has been extended twice since.[4] More recently, the Exchange proposed expansion of the pilot program to apply to all NMS stocks.[5] This expansion was approved on June 23, 2011.[6]

The Exchange believes the benefits to market participants from the individual stock trading pause rule should be continued on a pilot basis.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[8] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule change is also consistent with Section 11A(a)(1) of the Act[9] in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63097 (October 13, 2010), 75 FR 64767 (October 20, 2010) (SR–BYX–2010–002).

[4] *See* Securities Exchange Act Release No. 63513 (December 9, 2010), 75 FR 78784 (December 16, 2010) (SR–BYX–2010–007); Securities Exchange Act Release No. 64214 (April 6, 2011), 76 FR 20430 (April 12, 2011) (SR–BYX–2011–007).

[5] *See* Securities Exchange Act Release No. 64433 (May 6, 2011), 76 FR 27680 (May 12, 2011) (SR–BYX–2011–011).

[6] *See* Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex–2011–32; SR–NYSEArca–2011–26; SR–NSX–2011–06; SR–Phlx–2011–64).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) [15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change as operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–BYX–2011–018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BYX–2011–018. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BYX–2011–018 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20703 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65083; File No. SR–Phlx–2011–113]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period of the Trading Pause for NMS Stocks

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2011, NASDAQ OMX PHLX LLC ("Exchange"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of the trading pause for individual stocks contained in the Standard & Poor's 500 Index, Russell 1000 Index, and specified Exchange Traded Products that experience a price change of 10% or more during a five-minute period, so that the pilot will now expire on January 31, 2012.

The text of the proposed rule change is below. Proposed new language is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

italicized; proposed deletions are in brackets.

* * * * *

Rule 3100. Trading Halts on PSX

(a) Authority to Initiate Trading Halts or Pauses.

In circumstances in which the Exchange deems it necessary to protect investors and the public interest, and pursuant to the procedures set forth in paragraph (c):

(1)–(3) No change.

(4) If a primary listing market issues an individual stock trading pause in any of the Circuit Breaker Securities, as defined herein, the Exchange will pause trading in that security until trading has resumed on the primary listing market. If, however, trading has not resumed on the primary listing market and ten minutes have passed since the individual stock trading pause message has been received from the responsible single plan processor, the Exchange may resume trading in such stock. The provisions of this paragraph (a)(4) shall be in effect during a pilot set to end on *January 31, 2012*[the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies]. During the pilot, the term "Circuit Breaker Securities" shall mean any NMS stock.

(b)–(c) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 10, 2010, the Commission granted accelerated approval, for a pilot period to end December 10, 2010, of proposed rule changes submitted by the BATS Exchange, Inc., NASDAQ OMX BX, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, The NASDAQ Stock Market LLC ("NASDAQ"), New York Stock Exchange LLC ("NYSE"), NYSE Amex LLC ("NYSE Amex"), NYSE Arca, Inc. ("NYSE Arca"), and National Stock Exchange, Inc. (collectively, the "Exchanges"), to pause trading during periods of extraordinary market volatility in S&P 500 stocks.[3] The rules require the Listing Markets[4] to issue five-minute trading pauses for individual securities for which they are the primary Listing Market if the transaction price of the security moves ten percent or more from a price in the preceding five-minute period. The Listing Markets are required to notify the other Exchanges and market participants of the imposition of a trading pause by immediately disseminating a special indicator over the consolidated tape. Under the rules, once the Listing Market issues a trading pause, the other Exchanges are required to pause trading in the security on their markets. On September 10, 2010, the Commission approved the respective rule filings of the Exchanges to expand application of the pilot to securities comprising the Russell 1000® Index and specified Exchange Traded Products.[5]

In connection with its resumption of trading of NMS Stocks through the NASDAQ OMX PSX system, the Exchange adopted Rule 3100(a)(4) so that it could participate in the pilot program.[6] On September 29, 2010, the Exchange amended Rule 3100(a)(4) to include stocks comprising the Russell 1000® Index and specified Exchange Traded Products.[7] On December 7, 2010, the Exchange filed an immediately effective filing to extend the existing pilot program for four months, so that the pilot would expire on April 11, 2011.[8] On March 31, 2011, the Exchange filed an immediately effective filing to extend the pilot period an additional four months, so that the pilot would expire on August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[9] On June 23, 2011, the Commission approved the expansion of the pilot to all NMS stocks, but with different pause-triggering thresholds.[10]

The Exchange believes that the pilot program has been successful in reducing the negative impacts of sudden, unanticipated price movements in the securities covered by the pilot. The Exchange also believes that an additional extension of the pilot is warranted so that it may continue to assess whether circuit breakers are the best means to reduce the negative impacts of sudden, unanticipated price movements or whether alternative mechanisms would be more effective in achieving this goal.

Accordingly, the Exchange is filing to further extend the pilot program until January 31, 2012 and remove language from the rule concerning the "limit up/limit down" mechanism.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[11] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[12] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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[3] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010).

[4] The term "Listing Markets" refers collectively to NYSE, NYSE Amex, NYSE Arca, and NASDAQ.

[5] *See* Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010).

[6] *See* Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR–Phlx–2010–79).

[7] *See* Securities Exchange Act Release No. 63004 (September 29, 2010), 75 FR 61547 (October 5, 2010) (SR–Phlx–2010–126).

[8] *See* Securities Exchange Act Release No. 63504 (December 9, 2010), 75 FR 78304 (December 15, 2010) (SR–Phlx–2010–174).

[9] *See* Securities Exchange Act Release No. 64175 (April 4, 2011), 76 FR 19823 (April 8, 2011) (SR–Phlx–2011–044).

[10] *See* Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (SR–Phlx–2011–064, *et al.*).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78k–1(a)(1).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6)(iii) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) [18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change as operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–Phlx–2011–113 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–2011–113. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2011–113 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20704 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65085; File No. SR–BATS–2011–025]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 29, 2011, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on August 1, 2011.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the "Equities Pricing" section of its fee schedule effective August 1, 2011, in order to modify pricing related to executions that occur on EDGA EXCHANGE, Inc. ("EDGA") through the Exchange's TRIM routing strategy.[6] EDGA is implementing certain pricing changes effective August 1, 2011, including introduction of a fee to remove liquidity of $0.0006 per share. To maintain a direct pass through of the applicable cost to execute at EDGA, the Exchange proposes to charge $0.0006 per share for an order routed through its TRIM routing strategy and executed on EDGA.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[7] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed change to one of the Exchange's non-standard routing fees and strategies is competitive, fair and reasonable, and non-discriminatory in that it is equally applicable to all Members and is designed to mirror the cost applicable to the execution if such routed orders were executed directly by the Member at EDGA Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) thereunder,[10] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–BATS–2011–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2011–025. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2011–025 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20706 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

[6] As defined in BATS Rule 11.13(a)(3)(G).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65084; File No. SR–ISE–2011–49]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Rebates for Certain Complex Orders

August 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 29, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend transaction fees and rebates for certain complex orders executed on the Exchange. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), on the Commission's Web site at *http://www.sec.gov*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently assesses a per contract transaction charge to market participants that add or remove liquidity from the Exchange ("maker/taker fees") in 100 options classes (the "Select Symbols").[3] For complex orders in the Select Symbols, the Exchange currently charges a take fee of: (i) $0.30 per contract for Market Maker, Market Maker Plus,[4] Firm Proprietary and Customer (Professional)[5] orders; and (ii) $0.35 per contract for Non-ISE Market Maker[6] orders. Priority Customer[7] orders, regardless of size, are not assessed a fee for adding or removing liquidity from the Complex Order book. The Exchange now proposes to change the take fees for complex orders in a select number of options classes ("Designated Symbols"), as follows: (i) For Market Maker, Market Maker Plus, Firm Proprietary and Customer (Professional) complex orders, from $0.30 per contract to $0.31 per contract, and (ii) for Non-ISE Market Maker complex orders, from $0.35 per contract to $0.36 per contract. The Exchange is not proposing any change to fees for Priority Customer complex orders in the Designated Symbols. The Designated Symbols are AAPL, BAC, C, F, GLD, INTC, IWM, JPM, QQQ, SLV, SPY and XLF.

Additionally, ISE Market Makers who remove liquidity in the Select Symbols from the Complex Order book by trading with orders that are preferenced to them are currently charged $0.28 per contract. The Exchange now proposes to change the take fee to $0.29 per contract for ISE Market Makers who remove liquidity in the Designated Symbols from the Complex Order book by trading with orders that are preferenced to them. The Exchange notes that NASDAQ OMX PHLX, Inc. ("PHLX") currently assesses a fee for complex orders for certain symbols that are preferenced to market makers at that exchange at a rate of $0.27 per contract. For regular complex orders that remove liquidity in those symbols, PHLX charges its market makers a take fee of $0.29 per contract. With this proposed fee change, ISE will maintain the two cent differential that is currently in place at PHLX.[8]

Finally, as an incentive for members to direct customer order flow to the Exchange, Priority Customer complex orders in the Select Symbols, regardless of size, currently receive a rebate of $0.25 per contract on all legs when these orders trade with non-customer orders in the Exchange's Complex Order book. The Exchange proposes to increase this rebate to $0.26 per contract. The Exchange believes it is necessary to pay a rebate for Customer complex orders in the Designated Symbols in order to continue to attract Customer complex order flow to the Exchange.

The Exchange has designated this proposal to be operative on August 1, 2011.

[3] Options classes subject to maker/taker fees are identified by their ticker symbol on the Exchange's Schedule of Fees. *See* Securities Exchange Act Release Nos. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR–ISE–2010–25), 62048 (May 6, 2010), 75 FR 26830 (May 12, 2010) (SR–ISE–2010–43), 62282 (June 11, 2010), 75 FR 34499 (June 17, 2010) (SR–ISE–2010–54), 62319 (June 17, 2010), 75 FR 36134 (June 24, 2010) (SR–ISE–2010–57), 62508 (July 15, 2010), 75 FR 42809 (July 22, 2010) (SR–ISE–2010–65), 62507 (July 15, 2010), 75 FR 42802 (July 22, 2010) (SR–ISE–2010–68), 62665 (August 9, 2010), 75 FR 50015 (August 16, 2010) (SR–ISE–2010–82), 62805 (August 31, 2010), 75 FR 54682 (September 8, 2010) (SR–ISE–2010–90), 63283 (November 9, 2010), 75 FR 70059 (November 16, 2010) (SR–ISE–2010–106), 63534 (December 13, 2010), 75 FR 79433 (December 20, 2010) (SR–ISE–2010–114); 63664 (January 6, 2011), 76 FR 2170 (January 12, 2011) (SR–ISE–2010–120); and 64303 (April 15, 2011), 76 FR 22425 (April 21, 2011) (SR–ISE–2011–18).

[4] A Market Maker Plus is a market maker who is on the National Best Bid or National Best Offer 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months and 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium across all expiration months in order to receive the rebate. The Exchange determines whether a market maker qualifies as a Market Maker Plus at the end of each month by looking back at each market maker's quoting statistics during that month. If at the end of the month, a market maker meets the Exchange's stated criteria, the Exchange rebates $0.10 per contract for transactions executed by that market maker during that month. The Exchange provides market makers a report on a daily basis with quoting statistics so that market makers can determine whether or not they are meeting the Exchange's stated criteria.

[5] A Customer (Professional) is a person who is not a broker/dealer and is not a Priority Customer.

[6] A Non-ISE Market Maker, or Far Away Market Maker ("FARMM"), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), registered in the same options class on another options exchange.

[7] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[8] *See* PHLX Fee Schedule at *http://www.nasdaqtrader.com/content/marketregulation/membership/phlx/feesched.pdf.*

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(4) of the Act [10] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. The impact of the proposal upon the net fees paid by a particular market participant will depend on a number of variables, most important of which will be its propensity to add or remove liquidity in options overlying the Designated Symbols.

The Exchange believes that the proposed fees for options overlying the Designated Symbols remain competitive with fees charged by other exchanges and are therefore reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than to a competing exchange. The Exchange believes that its proposal to assess a $0.31 per contract take fee for Market Maker, Market Maker Plus, Firm Proprietary and Customer (Professional) complex orders in the Designated Symbols, and $0.36 per contract take fee for Non-ISE Market Maker complex orders, is reasonable because the fee is within the range of fees assessed by other exchanges employing similar pricing schemes. For example, the proposed take fees for complex orders are comparable to rates assessed by PHLX. PHLX currently assesses a take fee of $0.29 per contract to its market makers, $0.30 per contract for Firm and Professional orders and $0.35 per contract for Broker-Dealer orders in a number of symbols in its complex order book.[11]

The Exchange also believes that its proposal to assess a take fee for preferenced orders in the Designated Symbols of $0.29 per contract is reasonable because it will allow the Exchange to remain competitive with other exchanges that employ a similar pricing scheme while maintaining the two cent differential that currently exists at options exchanges between fees charged for regular complex orders that take liquidity and complex orders that are preferenced to market makers. For example, PHLX currently charges $0.27 per contract to Directed Participants for removing liquidity in all their Select Symbols while charging $0.29 per contract to its market makers.[12] Additionally, the Exchange believes the proposed fees are reasonable and equitable in that they will apply equally to all market participants that were previously subject to these fees.

The Exchange also believes that it is reasonable and equitable to provide a rebate for Priority Customer complex orders in the Designated Symbols because paying a rebate would continue to attract additional order flow to the Exchange and thereby create liquidity in the Designated Symbols that ultimately will benefit all market participants who trade on the Exchange. The Exchange further believes that paying a rebate is equitable and reasonable because it is similar to rebates paid by other Exchanges.[13] The proposed increased rebate of $0.26 per contract for Priority Customer complex orders in the Designated Symbols is identical to a proposal recently submitted by PHLX.[14]

Moreover, the Exchange believes that the proposed fees are fair, equitable and not unfairly discriminatory because the proposed fees are consistent with price differentiation that exists today at other option exchanges. Additionally, the Exchange believes it remains an attractive venue for market participants to trade complex orders despite its proposed fee change as its fees remain competitive with those charged by other exchanges for similar trading strategies. The Exchange operates in a highly competitive market in which market participants can readily direct order flow to another exchange if they deem fee levels at a particular exchange to be excessive. For the reasons noted above, the Exchange believes that the proposed fees are fair, equitable and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[15] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2011–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2011–49. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] *See* PHLX Fee Schedule at *http://www.nasdaqtrader.com/content/marketregulation/membership/phlx/feesched.pdf.*

[12] *Id.*

[13] *Id.*

[14] As of the date of this filing, PHLX has not posted on its web site its proposed rule change to increase the rebate to $0.26 per contract for Customer Complex Orders in the Designated Symbols. PHLX did, however, publish and distribute Options Trader Alert #2011–36 announcing new complex order pricing, effective August 1, 2011, in options overlying the Designated Symbols. *See http://www.nasdaqtrader.com/TraderNews.aspx?id=OTA2011–36.*

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2011–49 and should be submitted on or before September 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–20705 Filed 8–15–11; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before October 17, 2011.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Ingrid Ripley, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Ingrid Ripley, mailto: Program Analyst, Office of Financial Assistance 202–205–7538 *ingrid.ripley@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*

SUPPLEMENTARY INFORMATION:

PRIME is a grant program utilizing not for profit microenterprise development organizations (MDOs) to (1) Provide training and technical assistance to disadvantages and very-low income entrepreneurs (2) Provide training and facilitate capacity building to existing MDOs assisting disadvantaged and very-low income entrepreneurs, and (3) Provide research in the field of providing technical assistance to disadvantage and very-low income entrepreneurs. Information collected is used for oversight of the program and ensure appropriate use of federal funds.

Title: "PRIME (Program for Investment in Microentrepreneurs)".

Description of Respondents: Small Disadvantage Businesses.

Form Number: N/A.

Annual Responses: 140.

Annual Burden: 280.

SUPPLEMENTARY INFORMATION:

SBLCs and NFRL'S are non-depository lending institutions authorized by SBA primarily to make loans under section 7(a) of the Small Business Act. As sole regulator of these institutions, SBA requires them to submit audited financial statements annually as well as interim, quarterly financial statements and other reports to facilitate the Agency's oversight of these lenders.

Title: "Reports to SBA, Provisions 03 13 CFR 120.472".

Description of Respondents: Small Business Lending Companies.

Form Number: N/A.

Annual Responses: 72.

Annual Burden: 8,352.

Curtis B. Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. 2011–20795 Filed 8–15–11; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12730 and #12731]

Utah Disaster #UT–00010

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Utah (FEMA–4011–DR), dated 08/08/2011.

Incident: Flooding.

Incident Period: 04/18/2011 Through 07/16/2011.

Effective Date: 08/08/2011.

Physical Loan Application Deadline Date: 10/07/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 05/08/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/08/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Beaver, Box Elder, Cache, Daggett, Duchesne, Emery, Millard, Morgan, Piute, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Weber, and the Uintah and Ouray Indian Reservation.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 127306 and for economic injury is 127316.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–20838 Filed 8–15–11; 8:45 am]

BILLING CODE 8025–01–P

[16] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 7556]

Certification Related to the Khmer Rouge Tribunal

Pursuant to the authority vested in the Secretary of State, including under Section 7071 (c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 (Division F, Pub. L. 111–117), as carried forward by Full-Year Continuing Appropriations Act, 2011 (Div. B, Pub. L. 112–10), and Delegation of Authority 245–1, I hereby certify that the United Nations and Government of Cambodia are taking credible steps to address allegations of corruption and mismanagement within the Extraordinary Chambers in the Courts of Cambodia (also known as the "Khmer Rouge Tribunal").

This Certification and related Memorandum of Justification shall be provided to the appropriate committees of the Congress and published in the **Federal Register**.

Dated:July 29, 2011.

Thomas R. Nides,

Deputy Secretary for Management and Resources.

[FR Doc. 2011–20846 Filed 8–15–11; 8:45 am]

BILLING CODE 4710–30–P

TENNESSEE VALLEY AUTHORITY

[Meeting No. 11–03]

Sunshine Act Meeting; August 18, 2011

The TVA Board of Directors will hold a public meeting on August 18, 2011, at the TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee, to consider the matters listed below. The public may comment on any agenda item or subject at a public listening session which begins at 8:30 a.m. (ET). Following the end of the public listening session, the meeting will be called to order to consider the agenda items listed below. **Please note:** Due to the possibility of a large number of attendees, speakers are asked to pre-register online at TVA.gov prior to noon on Wednesday, August 17. On-site registration will be available until 15 minutes before the public listening session begins at 8:30 a.m. (ET). Pre-registered speakers will address the Board first. TVA management will answer questions from the news media following the Board meeting.

STATUS: Open

AGENDA

Chairman's Welcome

OLD BUSINESS:

Approval of minutes of April 14, 2011, Board Meeting

NEW BUSINESS:

1. Report from President and CEO (including Financial Report from CFO)
2. Report of the Nuclear Oversight Committee
   - A. Nuclear Safety
3. Report of the Finance, Rates, and Portfolio Committee
   - A. Asset Strategy Decisions
   - i. Sequoyah Relicensing
   - ii. Environmental Controls at Allen and Gallatin Fossil Plants
   - iii. Magnolia Combined Cycle Plant
4. Joint Report of the Finance, Rates, and Portfolio Committee and the Nuclear Oversight Committee
   - A. Bellefonte Nuclear Plant
5. Continuation of the Finance, Rates, and Portfolio Committee
   - A. Fiscal Year 2012 Budget and Business Plan
   - i. Fiscal Year 2012 Operating Budget
   - ii. Fiscal Year 2012 Capital Budget
   - iii. Rate Actions
   - iv. Retention of Net Power Proceeds
   - B. Fiscal Year 2012 Financial Bond Issuance Authority
   - C. Industrial Power Contracts
6. Report of the People and Performance Committee
   - A. TVA Medical Plan Contract
7. Report of the Customer and External Relations Committee
   - A. Natural Resource Plan
8. Report of the Audit, Risk, and Regulation Committee
   - A. Insurance Brokerage Contracts

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: August 11, 2011.

Ralph E. Rodgers,

General Counsel and Secretary.

[FR Doc. 2011–20917 Filed 8–12–11; 11:15 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airborne Supplemental Navigation Equipment Using the Global Positioning System (GPS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to cancel Technical Standard Order (TSO)–C129a, Airborne Supplemental Navigation Equipment Using the Global Positioning System (GPS), and request for public comment.

SUMMARY: This notice announces the FAA's intent to cancel TSO–C129a, Airborne Supplemental Navigation Equipment Using the Global Positioning System (GPS). The effect of the cancelled TSO will result in no new TSO–C129a design or production approvals. However, cancellation will not affect production according to an existing TSO authorization (TSOA). Articles produced under an existing TSOA can still be installed according to existing airworthiness approvals and applications for new airworthiness approvals will still be processed.

DATES: Comments must be received on or before September 15, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Bridges, AIR–130, Federal Aviation Administration, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024. Telephone (202) 385–4627, fax (202) 385–4651, e-mail to: *kevin.bridges@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the cancellation of the TSO by submitting written data, views, or arguments to the above address. Comments received may be examined, both before and after the closing date at the above address, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date.

Background

On September 21, 2009, the FAA published TSO–C196, Airborne Supplemental Navigation Sensors for Global Positioning System Equipment Using Aircraft-Based Augmentation; an updated minimum performance standard for GPS sensors not augmented by satellite-based or ground-based systems (*i.e.*, TSO–C129a Class B and Class C). The FAA has also published two GPS TSOs augmented by the satellite-based augmentation system (TSO–C145c, Airborne Navigation Sensors Using the Global Positioning System Augmented by the Satellite-Based Augmentation System; and, TSO–C146c, Stand-Alone Navigation Equipment Using the Global Positioning System Augmented by the Satellite-Based Augmentation System).

TSO–C145c, TSO–C146c, and TSO–C196 incorporate more stringent standards that make the GPS equipment more accurate and robust than sensors

built to the minimum requirements in TSO–C129a. Two examples of these improvements are: (1) A requirement for the receiver to properly account for satellite range error if it is reflected in the User Range Accuracy index (commonly referred to as being "Selective Availability aware"); and, (2) requirements to ensure performance is not degraded due to an increasing radio frequency noise environment as other satellite systems become available.

Since 1995, there has been one application for TSOA for TSO–C129a. Therefore, we believe that it is appropriate to cancel TSO–C129a, given the eventual obsolescence of TSO–C129a equipment, and the lack of industry interest in new TSO–C129a product designs.

Issued in Washington, DC, on August 1, 2011.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 2011–20812 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of a Draft Environmental Assessment for a Proposed Airport Traffic Control Tower and Base Building, Toledo Express Airport, Swanton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of a draft environmental assessment for a proposed airport traffic control tower and base building, Toledo Express Airport, Swanton, OH.

SUMMARY: The Federal Aviation Administration (FAA) proposes to fund, construct, and operate a new Airport Traffic Control Tower (ATCT) and Base Building at the Toledo Express Airport (TOL), Swanton, Ohio. The existing TOL ATCT and collocated Terminal Radar Approach Control facility are outdated and outmoded. The FAA's preferred alternative is to construct the ATCT at a location located near the airport terminal building and approximately 1,000 feet west of the existing ATCT facility. The purpose and need of the proposed project is to improve visibility of airport surfaces, provide adequate space to improve operational and administrative efficiency, increase the efficient functionality of the facility, and have the capability to meet future operational and administrative expansion requirements. The FAA has prepared a Draft Environmental Assessment (DEA) in conformance with the requirements of the National Environmental Policy Act of 1969 (NEPA) and FAA Order 1050.1E, *Environmental Impacts: Policies and Procedures.* The DEA analyzes the potential environmental impacts that may result from construction and operation of the proposed new ATCT and Base Building at the proposed site, as well as the no action alternative (*i.e.*, not constructing and operating the ATCT). Ancillary actions that would be taken in order to maintain optimal operational characteristics include replacement of the current Runway 25 Localizer (LOC) antenna and shelter with a Mark 20 or Mark 20A LOC antenna and shelter, and relocation of the Runway 25 LOC antenna array to a location 1,070 feet outward from the Runway 07 threshold, relocation of the Moving Target Indicator reflector and the upgrade of electronics for the Runway 25 Glide Slope. The DEA is available for public review during a 30–day public comment period at Swanton Pubic Library, 305 Chestnut Street, Swanton, Ohio 43558.

ADDRESSES: The FAA will accept written comments on the DEA until close of business on September 21, 2011. Comments on the DEA may be sent to: Ms. Virginia Marcks, Manager, AJW–C14D, FAA, 2300 East Devon Ave., Des Plaines, IL 60018, fax 847–294–7698, e-mail *virginia.marcks@faa.gov*. Copies of the Draft EA on compact disk may be obtained by contacting Ms. Virginia Marcks. Comments received on the DEA during the public comment period will be addressed in a Final Environmental Assessment.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Marcks, Manager, Infrastructure Engineering Center, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. *Telephone number:* 847–294–7494. *E-mail: virginia.marcks@faa.gov.*

Issued in Des Plaines, Illinois, August 9, 2011.

Virginia Marcks,

Manager, Infrastructure Engineering Center, Chicago, AJW–C14D, Central Service Area.

[FR Doc. 2011–20750 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eleventh Meeting: RTCA Special Committee 220: Automatic Flight Guidance and Control

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of Notice of RTCA Special Committee 220 meeting: Automatic Flight Guidance and Control.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 220: Automatic Flight Guidance and Control

DATES: The meeting will be held September 13–15, 2011, from 9 a.m. to 5 p.m., unless stated otherwise.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, Suite 910, NW., Washington, DC, 20036. For hotel information please view the following website: *http://www.rtca.org/directions/directions.asp#hotels.*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, Suite 910, NW., Washington, DC, 20036, telephone (202) 833–9339, fax (202) 833–9434, website *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 220, Automatic Flight Guidance and Control

Agenda

Tuesday September 13—Thursday, September 15, 2011

Tuesday, September 13

- Introductions and Administrative Items
- Review of Meeting Agenda
- Review and approval of summary from the first plenary meeting RTCA paper no. 011–11/SC220–024
- Presentation of progress of Working Group-2
- Presentation of progress of Working Group-3
- Break-out sessions for Working Groups 2 and 3

Wednesday, September 14, 2011

- Continue Break-out sessions for Working Groups 2 and 3
- Continue development of Installation Guidance White Papers

Thursday, September 15, 2011

- Return to general plenary meeting
- Review of Working Group 2 Status—Progress, Issues and Plans
- Review of Working Group 3 Status—Progress, Issues and Plans

- Review of Action Items
- Administrative items (meeting schedule, location, and next meeting agenda)
- Any other business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 8, 2011.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2011–20744 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on September 29, 2011, at 1 p.m.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 10th floor, MacCracken Room.

FOR FURTHER INFORMATION CONTACT: Renee Butner, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267- 5093; fax (202) 267–5075; e-mail *Renee.Butner@faa.gov.*

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee taking place on September 29, 2011, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591. The Agenda includes:

1. Discussion of restructuring of ARAC
2. Status of Rulemaking Prioritization Working Group (RPWG)
3. Update on FAA response to Process Improvement Working Group (PIWG) recommendations
4. Status Report from FAA on ARAC Recommendations
5. Issue Area Status Reports from Assistant Chairs
6. Remarks from other EXCOM members

Attendance is open to the interested public but limited to the space available. The FAA will arrange teleconference service for individuals wishing to join in by teleconference if we receive notice by September 20. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by September 20 to present oral statements at the meeting. The public may present written statements to the executive committee by providing 25 copies to the Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on August 9, 2011.

Dennis Pratte,

Acting Director, Office of Rulemaking.

[FR Doc. 2011–20807 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventh Meeting: RTCA Special Committee 219: Attitude and Heading Reference System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 219 meeting: Attitude and Heading Reference System.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 219: Attitude and Heading Reference System.

DATES: The meeting will be held September 20–22, 2011, from 9 a.m. to 5 p.m., unless stated otherwise.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036. For hotel information please view the following *Web site: http://www.rtca.org/directions/directions.asp#hotels.*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, telephone (202) 833–9339, fax (202) 833–9434, Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 219, Attitude and Heading Reference System.

Agenda

Tuesday September 20–Thursday, September 22, 2011

Tuesday, September 20, 2011

- Introductions and Administrative Items;
- Review of Meeting Agenda;
- Review and approval of summary from the sixth plenary meeting RTCA paper No. 123–11/SC219–012;
- Review minutes from last working group meeting;
- Review current state of draft MOPS document prior to moving into working group sessions;
- Plan working group sessions.

Wednesday, September 21, 2011

- Working group sessions.

Thursday, September 22, 2011

- Reassemble draft MOPS document after working group inputs;
- List changes for the pre-FRAC document;
- Consider and approve draft MOPS document for final review and comment (FRAC);
- Administrative items (meeting schedule, location, and next meeting agenda);
- Any other business;
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 9, 2011.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2011–20745 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighth Meeting: RTCA Special Committee 224: Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 224 meeting: Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 224: Airport Security Access Control Systems.

DATES: The meeting will be held September 15, 2011, from 10 a.m. to 4 p.m.

ADDRESS: The meeting will be held at RTCA, Inc., 1150 18th Street, NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, NW., Suite 910, Washington, DC 20036, telephone (202) 833–9339, fax (202) 833–9434, Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 224, Airport Security Access Control Systems (Update to DO–230B):

Agenda

September 15, 2011

- Welcome/Introductions/ Administrative Remarks;
- Review/Approve Summary—Seventh Meeting;
- Proposed Structure Overview;
- Sub Section Workgroup Reports;
- Document Structure Finalization Scheduling;
- Time and Place of Next Meeting;
- Any Other Business;
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 9, 2011.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2011–20746 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventeenth Meeting: EUROCAE WG–72: RTCA Special Committee 216: Aeronautical Systems Security (Joint Meeting)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of EUROCAE WG–72: RTCA Special Committee 216: Aeronautical Systems Security (Joint Meeting).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of EUROCAE WG–72: RTCA Special Committee 216: Aeronautical Systems Security (Joint Meeting).

DATES: The meeting will be held September 7–9, 2011 starting at 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, 1150 18th Street, NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, NW., Suite 910, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a EUROCAE WG–72: RTCA Special Committee 216: Aeronautical Systems Security (Joint Meeting) meeting.

Agenda

Tuesday, September 6th (Pre-Meeting Events)

- 9 a.m. to 12 p.m. Optional—DHS National Cybersecurity and Communications Integration Center (NCCIC) Tour. Participants should coordinate directly with Kevin Harnett with any questions.
- The NCCIC Tour will be conducted in Arlington VA. Folks need to arrange for their transportation (can be done via Metro). Directions (attached to email distribution of this agenda).
- Contact info will be need in advance. For US citizens, DHS needs name and last 4 of your SSN. Please provide this information by Aug 12th. For non-US citizens an iSMS form is required (attached) and DHS would like this form by Aug 12 (3 weeks before the visit). Secret Clearance is not needed; The tour will be unclassified. Please send information to the DHS Point of Contacts: Holly Taing(*Holly.Taing@associates.dhs.gov*) and Mr Amit Kholsa (*Amit.Khosla@dhs.gov*).
- You will need to be at DHS for security check-in between 9:45–10 a.m. 30 minutes will be an NCCIC Briefing and 45 minutes will be the NCCIC Tour to be held from 10:30 a.m.–12 p.m.
- DOT Point of Contact: Kevin Harnett (*Kevin.Harnett@dot.gov*), U.S. Department of Transportation/Volpe Center, Cyber Security Project Manager, 617–699–7086 (cell), 617–494–2604 (work).
- 1 p.m.–5 p.m. (Subgroup Meetings).
- **Subgroup 2 (SG2)**
- Action Item Status Review.
- Schedule Review.
- Develop Breakout Meeting Schedule.
- Review any parts of ED203 that are not finished.
- Review any new portions of the document.
- Subgroup 4 (SG4).
- Action Item Status Review.
- Schedule Review.
- Develop Breakout Meeting Schedule.
- Review new portions of documentation.

Wednesday September 7, 2011 (Day 1)

- 9 a.m.–11 a.m.—Split Plenary.
- SC–216—approval of the Summary the 16th meeting held May 10–13. 2011.
- Report on the PMC/ICC update.
- RTCA Specific Publication Progress and Update.
- WG—72.
- Introduction.
- Election of Secretary/Report about publications and relations.
- Document Discussions/WG–72 specific concerns.
- Status TC377/WG1 cooperation.
- 11:15 a.m.–12 p.m., DHS Briefing on the Cybersecurity Control System Security (CSSP) Program.
- 1 p.m.—Joint Plenary Meeting.
- Reports on editorial status of document(ED–202A/ED–203/ED–204).
- Status of liaisons-ICAO.
- TC377.
- RTCA–SG4 concerns.
- PMC Update.
- SC–205, S–18.
- Subgroup Meetings/Breakouts (TBA—5:00 p.m.).

Thursday, September 8, 2011 (9 a.m.– 5 p.m.).

- Subgroup Meetings/Break-outs.

Friday, September 9, 2011.

- 9 a.m.–12 p.m. Subgroup Meetings/ Break-outs.
- 1:15 p.m.– 4 p.m.—Joint Plenary.
- Reports on Break-outs.
- Action Items Review and Coordination.
- Confirm Dates, Location, and Agenda for Next Meeting(s).

- Any Other Business.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 9, 2011.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2011–20747 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventeenth Meeting: RTCA Special Committee 205/EUROCAE WG–71: Software Considerations in Aeronautical Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 205/EUROCAE WG–71 meeting: Software Considerations in Aeronautical Systems.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 205/ EUROCAE WG–71: Software Considerations in Aeronautical Systems Agenda for the 17th meeting.

DATES: The meeting will be held August 29–September 1, 2011, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at ENSEEIHT, 2, rue Charles Carmichel, Poite Postale 7122, 31071 TOULOUSE Cedex 7, France. Contact, Aerospace Valley and ENSEEIHT, Gerard Ladier, *laudier@aerospace-valley.com*, +33.6.88.51.71.37.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036, telephone (202) 833–9339, fax (202) 833–9434, Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 205/EUROCAE WG–71, Software Considerations in Aeronautical Systems Agenda for the 17th meeting:

Agenda

Day 1, Monday, August 29, 2011

- Open Plenary Session
- Chairmen's Introductory Remarks
- Facilities Review
- Recognition of the FAA and EASA Representatives
- Review of Meeting Agenda
- Review and Approval of Sixteenth Meeting Summary
- Road Map to Completion
- Referenced Documents
- ED–12B/DO–178B, Software Considerations in Airborne Systems and Equipment Certification
- ED–94B/DO–248B, Final Annual Report for Clarification of ED–94B/DO–178B, Software Considerations in Airborne Systems and Equipment Certification
- ED–109/DO–278 DO-xxx, Guidelines for CNS/ATM Systems Software Integrity Assurance
- Plenary Text Presentation
- IP50/IP51 (Core): Post FRAC Changes
- IP54/IP55 (CNS/ATM): Post FRAC Changes
- Final Approval of IP50/IP51 and IP54/IP55
- CAST Meeting
- Break Out Sessions
- IP58—Model Based Design
- IP60—Object Oriented
- IP52/IP53—FAQs et al
- Others as required

Day 2, August 30, 2011

- Break Out Sessions
- IP58—Model Based Design
- IP60—Object Oriented
- IP52/IP53—FAQs *et al*
- Others as required
- Plenary Text Presentation
- IP56(Tools): Post FRAC Changes
- IP62 (Formal Methods): Post FRAC Changes
- Plenary Text Approval (Final Approval)
- IP58/IP and IP62
- Plenary Text Presentation
- IP58—Model based Design
- IP60—Object Oriented
- IP52/IP53—FAQs *et al*
- Birds of a Feather Session
- Presentation and Moderated Session

Day 3, August 31, 2011

- Break Out Sessions (as required to work comments)
- IP58—Model based Design
- IP60—Object Oriented
- IP52/IP53—FAQs et al
- CAST Meeting
- Explanation of Voting Process
- Break Out Sessions
- IP58—Model based Design
- IP60—Object Oriented
- IP52/IP53—FAQs et al
- Mandatory Reading
- Plenary Text Approval (for FRAC)
- IP58—Model based Design
- IP60—Object Oriented
- IP52/IP53—FAQs et al
- Social Event

Day 4, September 1, 2011

- Plenary Text Approval
- Summary of Results from Voting Session
- Revised Road Map to Completion
- Another Other Business and next meeting information (the final meeting shall be hosted by ERAU in Dayton Beach, FL, the week of November 15–18, 2011)
- Closing Remarks
- Meeting Evaluation (Round Robin)
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 9, 2011.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2011–20748 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Dennison Railroad Depot Museum (RPCX 422)

[Waiver Petition Docket Number FRA–2010–0179]

The Dennison Railroad Depot Museum (DRDM), an Ohio nonprofit 501(c)(3) charitable organization, seeks a waiver of compliance from the requirements of 49 CFR Section 223.15,

Requirements for existing passenger cars. Specifically, DRDM has petitioned for one lightweight passenger car built in 1949 for Canadian National Railway (now Coach RPCX 422). DRDM operates this car on its Polar Express, which is a roundtrip of 40 miles on track owned by Genesee & Wyoming Railroad. This car was purchased by DRDM in 2008 from the Locomotive and Tower Preservation Fund, LTD. There have been no accidents and/or incidents attributed directly or indirectly to window glazing failures in this equipment while under current ownership. There has been one act of vandalism (with one cracked window; no resultant injuries) that occurred in the fall of 2009. The maximum authorized speed for this train is 45 mph, mostly rural in nature. The car operates in excursion service during two weekends in December, with two roundtrips on Fridays and four on Saturdays and Sundays (20 Polar Express trips; annual mileage is approximately 800).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2010–0179) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, *etc.*). You may review the U.S. Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Page 19477–78) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on August 11, 2011.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2011–20789 Filed 8–15–11; 8:45 am]

BILLING CODE ;P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Major Capital Investment Projects; Guidance on News Starts/Small Starts Policies and Procedures

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice is intended to inform the public that no significant changes are proposed to the existing guidance on the New Starts and Small Starts programs. FTA is required by statute to publish policy guidance every two years on the New Starts and Small Starts programs. This notice serves to notify the public that FTA intends to continue use of existing guidance at this time.

DATES: *Effective Date:* This notification is effective August 16, 2011.

FOR FURTHER INFORMATION CONTACT: For questions on the New or Small Starts program, contact Elizabeth Day, Office of Planning and Environment, telephone (202) 366–5159; for questions of a legal nature, contact Christopher Van Wyk, Office of Chief Counsel, (202) 366–1733. Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On August 10, 2005, President Bush signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 110–244), which amends 49 U.S.C. 5309. Section 5309(d)(6) of Title 49, U.S. Code, requires the Federal Transit Administration (FTA) to publish policy guidance on the New and Small Starts capital project review and evaluation process and criteria each time significant changes are made, but not less frequently than once every two years.

FTA last published *Guidance on New and Small Starts Policies and Procedures* in September 2009. Thus, FTA is publishing today a notice that no significant changes are proposed to the New Starts and Small Starts review and evaluation process at this time. Information describing the current New and Small Starts review process can be found on FTA's Web site at *http://www.fta.dot.gov/planning/planning_environment_5221.html.*

This notification should not be confused with the Advanced Notice of Proposed Rulemaking (ANPRM) published by FTA in June 2010, which sought public comment on the New Starts and Small Starts project justification criteria. Information gathered from that ANPRM is being used to inform FTA's broader effort to amend the regulations that govern the New Starts and Small Starts programs.

Issued on: August 10, 2011.

Peter Rogoff,

Administrator, Federal Transit Administration.

[FR Doc. 2011–20851 Filed 8–15–11; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Two Entities Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of two newly designated entities whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters."

DATES: The designation by the Director of OFAC, pursuant to Executive Order 13382, of the entities identified in this notice is effective on August 10, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of

the Treasury, Washington, DC 20220, tel.: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/offices/enforcement/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the "Order"), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) Any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On June 23, 2011, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated two entities whose property and interests in property are blocked pursuant to Executive Order 13382:

1. COMMERCIAL BANK OF SYRIA (all offices worldwide), P.O. Box 933, Yousef Azmeh Square, Damascus, Syria; Aleppo Branch, P.O. Box 2, Kastel Hajjarin St., Aleppo, Syria; Damascus Branch, P.O. Box 2231, Moawiya St., Damascus, Syria; SWIFT/BIC: CMSY SY DA [NPWMD]
2. SYRIAN LEBANESE COMMERCIAL BANK, Hamra, Makdessi Street, SLCB Building, P.O. Box 113–5127/11–8701, Beirut, Lebanon; Hamra Branch, Hamra St., Darwish and Fakhro Building, P.O. Box 113–5127/11–8701, Beirut, Lebanon; Mar Elias Branch, Mar Elias Street, Fakhani Building, P.O. Box 145 796, Beirut, Lebanon; SWIFT/BIC: SYLC LB BE [NPWMD]

In addition, on August 10, 2011, the Director of OFAC amended the designation record for BANK MELLI IRAN to include the following new location:

1. Address: Esteghlal St., Opposite to Otbeh Ibn Ghazvan Hall, Basrah, Iraq [NPWMD]

Dated: August 10, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2011–20833 Filed 8–15–11; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 76 Tuesday,
No. 158 August 16, 2011

Part II

Environmental Protection Agency

40 CFR Parts 704, 710, and 711
TSCA Inventory Update Reporting Modifications; Chemical Data Reporting; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 704, 710, and 711

[EPA–HQ–OPPT–2009–0187; FRL–8872–9]

RIN 2070–AJ43

TSCA Inventory Update Reporting Modifications; Chemical Data Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the Toxic Substances Control Act (TSCA) section 8(a) Inventory Update Reporting (IUR) rule and changing its name to the Chemical Data Reporting (CDR) rule. The CDR enables EPA to collect and publish information on the manufacturing, processing, and use of commercial chemical substances and mixtures (referred to hereafter as chemical substances) on the TSCA Chemical Substance Inventory (TSCA Inventory). This includes current information on chemical substance production volumes, manufacturing sites, and how the chemical substances are used. This information helps the Agency determine whether people or the environment are potentially exposed to reported chemical substances. EPA publishes submitted CDR data that is not Confidential Business Information (CBI). EPA is amending this rule to require submission of information that will better address Agency and public information needs, improve the usability and reliability of the reported data, and ensure that data are available in a timely manner. EPA is requiring electronic reporting of CDR information and modifying reporting requirements, including certain circumstances that trigger reporting, the specific data to be reported, the reporting standard for processing and use information, and CBI reporting procedures.

DATES: This final rule is effective September 15, 2011.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2009–0187. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Chenise Farquharson, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–7768; e-mail address: *farquharson.chenise@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including manufacture as a byproduct) or import, for commercial purposes, chemical substances listed on the TSCA Inventory (under TSCA section 3, "import" is included in the definition of manufacture). Potentially affected entities may include, but are not limited to:

- Chemical substance manufacturers and importers (NAICS codes 325 and 324110; *e.g.*, chemical substance manufacturing and processing and petroleum refineries).
- Chemical substance users and processors who, in addition to manufacturers described in this unit, may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344; *e.g.*, utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

II. Background

A. What action is the agency taking?

In this action, EPA is promulgating several amendments to the IUR rule, taking into consideration comments received on the proposed rule and is changing its name to the CDR rule. The amendments were proposed in the **Federal Register** issue of August 13, 2010 (Ref. 1). The amendments contained in this final rule, as well as the TSCA Inventory update provisions of 40 CFR part 710, subpart C, unchanged by these amendments, appear in a new part, 40 CFR part 711. The following is a brief listing of the primary amendments. These amendments are described in more detail in Unit III.

1. EPA is amending 40 CFR 710.59, which appears in the new 40 CFR part 711 as 40 CFR 711.35, to require electronic reporting of the CDR data, using an Agency-provided, web-based reporting tool (e-CDRweb) to submit CDR reports through the Internet to EPA's Central Data Exchange (CDX). After the final rule's effective date (see **DATES**), paper submissions will no longer be accepted.

2. EPA is adding a new definition section, which appears in the new 40 CFR part 711 as 40 CFR 711.3, revising the definition for *manufacture* and *site;* and making other needed definitional modifications and additions.

3. EPA is amending 40 CFR 710.53, which appears in the new 40 CFR part 711 as 40 CFR 711.20, to change the reporting frequency from every 5 years to every 4 years.

4. EPA is amending 40 CFR 710.48(a), which appears in the new 40 CFR part 711 as 40 CFR 711.8(a), to modify the method used to determine whether a manufacturer (including importer) is subject to CDR reporting. The method will be effective after the 2012 submission period. Subsequent to 2012, reporting is required if the production volume of a chemical substance met or exceeded the 25,000 pound (lb) threshold in any calendar year since the last principal reporting year (*e.g.*, 2011).

5. EPA is amending 40 CFR 710.52(c), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b), to replace the 300,000 lb reporting threshold for processing and use information by phasing in a lower threshold. For the 2012 submission period, the threshold for reporting processing and use information is 100,000 lb. In subsequent submission periods, the reporting threshold will be 25,000 lb.

6. EPA is amending 40 CFR 710.48(a), which appears in the new 40 CFR part 711 as 40 CFR 711.8(b), to replace the 25,000 lb threshold for specific chemical substances that are the subject of particular TSCA rules and/or orders. The new reporting threshold for these chemical substances is 2,500 lb, which is effective for the 2016 submission period and subsequent submission periods.

7. EPA is amending 40 CFR 710.46, which appears in the new 40 CFR part 711 as 40 CFR 711.6, to make chemical substances for which an enforceable consent agreement (ECA) to conduct testing has been made under 40 CFR part 790 ineligible for exemptions, to provide a full exemption from CDR requirements for water, and to remove polymers, which are already fully exempt from the partially exempt list of chemical substances at 40 CFR 710.46(b)(2)(iv), which appears in the new 40 CFR part 711 as 40 CFR 711.6(b)(2)(iv).

8. EPA is amending 40 CFR 710.52(c), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b), to modify the reporting requirements for certain manufacturing data elements. Specifically, manufacturers (including importers) are required to report:

a. The name and address belonging to the parent company.

b. The current Chemical Abstracts (CA) Index Name, as used to list the chemical substance on the TSCA Inventory, as part of the chemical identity.

c. For the 2012 submission period only, the production volume for calendar year 2010.

d. The production volume for each of the years since the last principal reporting year. This requirement will be effective after the 2012 reporting cycle (*i.e.*, for the 2016 submission period and subsequent submission periods).

e. The volume of a manufactured (including imported) chemical substance used at the reporting site.

f. Whether an imported chemical substance is physically present at the reporting site.

g. The volume directly exported and not domestically processed or used.

h. When a manufactured chemical substance, such as a byproduct, is being recycled, remanufactured, reprocessed, or reused.

9. EPA is replacing the "readily obtainable" reporting standard used for the reporting of processing and use information required by 40 CFR 710.52(c)(4), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(4), with the "known to or reasonably ascertainable by" reporting standard.

10. EPA is amending 40 CFR 710.58, which appears in the new 40 CFR part 711 as 40 CFR 711.30, to require upfront substantiation when processing and use information required by 40 CFR 710.52(c)(4), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(4), is claimed as CBI.

11. EPA will disallow confidentiality claims for processing and use data elements identified as not "known to or reasonably ascertainable by" (40 CFR 710.52(c)(4)), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(4).

12. EPA is revising the list of industrial function categories for the reporting of processing and use information. EPA is also amending 40 CFR 710.52(c)(4)(i)(C), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(4)(i)(B), to replace the 5-digit NAICS codes with 48 Industrial Sector (IS) codes.

13. EPA is amending 40 CFR 710.52(c)(4)(ii), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(4)(ii), to revise the list of consumer and commercial product categories for the reporting of consumer and commercial use information. EPA is also requiring the separate reporting for consumer or commercial categories and the reporting of the number of commercial workers reasonably likely to be exposed to the subject chemical substance.

14. EPA is eliminating the gaps in the ranges used to report concentration in 40 CFR 710.52(c)(3) and (c)(4), which appear in the new 40 CFR part 711 as 40 CFR 711.15(b)(3) and (b)(4).

B. What is the agency's authority for taking this action?

EPA is required under TSCA section 8(b), 15 U.S.C. 2607(b), to compile and keep current an inventory of chemical substances manufactured or processed in the United States. This inventory is known as the TSCA Chemical Substance Inventory (TSCA Inventory). The Agency maintains the Master Inventory File as the authoritative list of all the chemical substances reported to EPA for inclusion on the TSCA Inventory. In 1977, EPA promulgated a rule published in the **Federal Register** issue of December 23, 1977 (Ref. 2) under TSCA section 8(a), 15 U.S.C. 2607(a), to compile an inventory of chemical substances in commerce at that time. In 1986, EPA promulgated the initial IUR rule under TSCA section 8(a) at 40 CFR part 710, published in the **Federal Register** issue of June 12, 1986 (Ref. 3), to facilitate the periodic updating of information on chemical substances listed on the TSCA Inventory and to support activities associated with the implementation of TSCA. In 2003, EPA promulgated extensive amendments to the IUR rule, published in the **Federal Register** issue of January 7, 2003 (2003 IUR Amendments) (Ref. 4), to collect exposure-related information associated with the manufacturing, processing, and use of eligible chemical substances and to make certain other changes.

Section 8(a)(1) of TSCA authorizes the EPA Administrator to promulgate rules under which manufacturers and processors of chemical substances must maintain such records and submit such information as the EPA Administrator may reasonably require. Section 8(a) of TSCA generally excludes small manufacturers and processors of chemical substances from the reporting requirements established in TSCA section 8(a). However, EPA is authorized by TSCA section 8(a)(3)(A)(ii) to require TSCA section 8(a) reporting from small manufacturers and processors with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or that is the subject of an order in effect under TSCA section 5(e), or that is the subject of relief granted pursuant to a civil action under TSCA section 5 or 7. The standard for determining whether an entity qualifies as a small manufacturer for purposes of 40 CFR part 710, which appears in the new 40 CFR part 711, is found at 40 CFR 704.3. Processors are not currently subject to the rules at 40 CFR part 710, which appears in the new 40 CFR part 711.

This document renames the IUR as CDR and promulgates the CDR as 40 CFR part 711, which includes provisions copied from the existing regulations in 40 CFR part 710, subpart C, that are not substantively changed as a part of this rulemaking, and the new provisions in this final rule. Failure to comply fully with any provision of this final rule will be a violation of TSCA section 15 and will subject the violator to the penalties of TSCA sections 16 and 17.

C. What was the TSCA inventory update reporting (IUR) rule prior to these modifications?

The IUR rule, as modified by the 2003 IUR Amendments, required U.S. manufacturers (including importers) of chemical substances listed on the TSCA Inventory to report the identity of chemical substances manufactured (including imported) during the reporting year in quantities of 25,000 lb or greater at any single site they own or control to EPA every 5 years. IUR data were collected five times prior to the 2003 IUR Amendments: 1986, 1990, 1994, 1998, and 2002, and one time after the 2003 IUR Amendments, in 2006. EPA uses the TSCA Inventory and data reported under the IUR rule to support many TSCA-related activities and to support a number of EPA and other Federal health, safety, and environmental protection activities. The Agency also makes the data available to the public, to the extent possible given CBI claims.

Persons manufacturing (including importing) chemical substances were required to report information such as company name, site location and other identifying information, production volume of the reportable chemical substance, and exposure-related information associated with the manufacture of each reportable chemical substance. This exposure-related information included the physical form and maximum concentration of the chemical substance and the number of potentially exposed workers. Several groups of chemical substances were and will continue to be generally excluded from the reporting requirements: *e.g.,* polymers, microorganisms, naturally occurring chemical substances, and certain natural gas substances.

Manufacturers (including importers) of chemical substances in larger volumes (*i.e.,* 300,000 lb or greater manufactured (including imported) during the reporting year at any single site) were required also to report certain processing and use information for the 2006 submission. This information includes process or use category; NAICS code; industrial function category; percent production volume associated with each process or use category; number of use sites; number of potentially exposed workers; and consumer/commercial information such as use category, use in or on products intended for use by children, and maximum concentration.

The 2006 submission was the first instance where manufacturers (including importers) of inorganic chemical substances were required to report under the IUR rule. For the 2006 submission only, inorganic chemical substances were partially exempted from the IUR rule, and manufacturers of such chemical substances were required to report the manufacturing information and not the processing and use information, regardless of production volume. Under the previous rule, for future collections (*i.e.,* for 2011 or 2016 collections, etc.), the partial exemption for inorganic chemical substances would have no longer been applicable and submitters would have reported in the same manner as was required for organic chemical substances, including processing and use information. In addition, starting with the 2006 collection and for future collections, specifically listed petroleum process streams and other specifically listed chemical substances were partially exempt, and manufacturers of such chemical substances were not required to report processing and use information. These partial exemptions will continue in subsequent submission periods under the CDR as revised in this final rule (including the 2012 collection), for as long as the chemical substances remain on these partial exemption lists 40 CFR 711.6(b)(1) and (b)(2).

Non-confidential data, including both searchable and separately downloadable databases, and the 2006 IUR data summary report are available to the public on the CDR Web site (*http://www.epa.gov/iur*).

D. Why is the agency amending the IUR rule?

EPA has modified the IUR rule to meet four primary goals:

1. To tailor the information collected to better meet the Agency's overall information needs.

2. To increase its ability to effectively provide public access to the information.

3. To obtain new and updated information relating to potential exposures to a subset of chemical substances listed on the TSCA Inventory.

4. To improve the usefulness of the information reported. EPA believes that expanding the range of chemical substances for which more in-depth processing and use information is to be reported and adjusting the specific reported information, the method and frequency of collecting the information, and CBI requirements will accomplish these goals.

These goals are supported by a policy outlined in TSCA section 2, which is that "adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such data should be the responsibility of those who manufacture and those who process such chemical substances and mixtures" (TSCA section 2(b)(1)). Modifications to the IUR requirements by the 2003 IUR Amendments provided many improvements to the data collected through that rule, and EPA's efforts to use the 2006 IUR data identified areas where further improvements are needed. The modifications described in this final rule change some of the reporting requirements in an effort by EPA to ensure the required information is properly reported and that the information in the Agency's database reflects the information provided in the IUR reports; increase the usability of the collected information; increase the availability of information for the public; and focus reporting on information that is most needed by the Agency.

In addition, these changes will enable EPA and other Federal agencies to improve their risk screening capabilities, enabling them to better assess and manage risk, and improve public awareness of basic information about a large number of chemical substances.

EPA provided reporting software for the 2006 IUR submission period and encouraged electronic reporting through the Internet, using the Agency's CDX. EPA's experience with populating the IUR database and with using the 2006 IUR data provided insight into how well both the reporting software and submission methods worked. For instance, because of validations built into the reporting software, electronic submissions were able to be quickly assimilated into the IUR database. Other forms of submission required the documents to be scanned in or hand entered, and resulted in many introduced errors during the data entry process. Additionally, for the 2006 IUR, certain types of submissions (*e.g.,* joint submissions) could not be reported electronically. Other problems, such as incorrect chemical identities, delayed the inclusion of the data into the database, resulting in the Agency's inability to begin using the 2006 IUR data and providing public access in a timely manner. The modifications in this final rule associated with reporting methods and changes to the reporting software will better ensure the information reported to the Agency is accurate and in compliance with the IUR requirements.

During the development of the 2003 IUR Amendments, the Agency considered the data accuracy and reliability needed for screening level exposure analyses and took several steps to ensure the IUR data met those needs. Screening level data need not be precise, but should be accurate and reliable enough for the Agency to develop screening level assessments. The 2003 IUR Amendments supplied exposure-related information the Agency did not previously possess, recognizing that industry has a greater knowledge than EPA about its own operations and the uses of chemical substances it manufactures and sells.

EPA's extensive use of the 2006 IUR data in the Agency's Existing Chemicals Program is consistent with how EPA envisioned the data would be used when the 2003 IUR Amendments were promulgated. In 2007, the Agency began to develop and post screening-level hazard, exposure, and risk characterizations for high production volume (HPV) chemical substances, which are those chemical substances produced nationally at aggregated volumes of one million lb or more per year. In developing these characterizations, EPA identified areas where the IUR data collection can be improved and enhanced. Improvements would allow EPA to better identify and take follow-up action on chemical substances that may pose potential risks to human health or the environment.

During its review of the IUR data, EPA identified numerous examples of CBI claims where the same or similar information to that claimed as CBI was already available to the public. In several cases, information on production volume and uses for a chemical substance or group of chemical substances was claimed CBI on Form U, while the same or similar information was submitted voluntarily by the company without such a claim under the HPV Challenge Program. In those cases, EPA had previously made the information publicly available through the High Production Volume Information System (HPVIS) or on EPA's Existing Chemicals Program Web site. More detailed CBI substantiation requirements will encourage the correct designation of non-confidential reported information, thereby facilitating reporting of this information to the public.

EPA Administrator Lisa P. Jackson has made it a priority to strengthen the Agency's chemical management program, including the development of new regulatory risk management actions, the development of Chemical Action Plans targeting the Agency's risk management efforts, requiring the reporting of information needed to understand chemical substance risks, and increasing public access to information about chemical substances (Ref. 5). The IUR provides exposure-related data needed to understand chemical substance risks. The modifications to the IUR rule will enhance the capabilities of the Agency to ensure risk management actions are taken on chemical substances which may pose the greatest concern. More in-depth reporting of the processing and use data, more careful consideration of the need for confidentiality claims, and adjustments to the specific data elements are important aspects of this action. By enhancing the data supplied to the Agency, EPA expects to more effectively and expeditiously identify and address potential risks posed by chemical substances and provide improved access and information to the public.

An important and anticipated result of this action is that EPA will receive more publicly available, non-CBI information, therefore increasing the transparency and public accessibility of the chemical substance use, and exposure information and ensuring consistency with the President's policy goals for government reliance on and public availability of scientific information.

As part of this action, EPA is also renaming the IUR to CDR. This name change is intended to better reflect the distinction between this data collection (which includes exposure-related data) and the TSCA Inventory itself (which only involves chemical identification information). Identifying this data collection as "CDR" will make it easier for the public to understand what information is available to them through the data collection. The name change thereby contributes to the Agency's current chemicals management program by increasing transparency and facilitating public access to information about chemical substances.

E. When is reporting required?

EPA promulgated a final rule, published in the **Federal Register** issue of May 11, 2011 (Ref. 6), to suspend the 2011 submission period. EPA suspended the submission period to allow additional time to finalize the proposed modifications, and to provide sufficient time for companies to comply with the CDR reporting requirements. This action supersedes the suspension of the 2011 submission period by establishing a new sequence of submission periods, beginning with a submission period in 2012. For the 2012 CDR, all information reported to EPA in response to 40 CFR part 711 must be submitted between February 1, 2012, and June 30, 2012. Beginning in 2016 and for each subsequent submission period, the submission period will begin June 1 and end September 30 (40 CFR 711.20).

III. What are the revised requirements of the CDR?

EPA is making a number of revisions to the IUR, as described in this unit. The regulatory text of this document describes the full specific CDR reporting requirements and includes both the modified and the unmodified portions of the regulatory text (see 40 CFR part 711). EPA has also developed guidance documents with specific reporting instructions, questions and answers, and case studies, and intends to conduct a webinar to help potential CDR submitters become familiar with the revised reporting form (Form U) and amended reporting requirements. Guidance documents and information on the webinar are available on the CDR Web site (*http://www.epa.gov/iur*).

A. What technical modifications have been made to the regulatory text?

The Agency is making several technical modification related to moving the regulatory text to its own part in the CFR. The chemical substances that are covered by the CDR rule are on the Master Inventory File, which includes chemical substances from the original TSCA Inventory compilation and those added subsequently through the notice requirements of TSCA section 5. Because the CDR rule applies to a list of chemical substances included on the original TSCA Inventory plus additional chemical substances added subsequently, and because the Agency from time to time has modified the CDR rule, the Agency believes the regulatory text associated with the CDR rule should be in its own part in the CFR, distinct from both the original TSCA Inventory rules and from the TSCA section 5 requirements.

1. *Move the IUR regulatory text from 40 CFR part 710, subpart C, to 40 CFR part 711 and eliminate subpart divisions.* Subpart C (40 CFR 710.43 to 710.59) of 40 CFR part 710 contains the IUR regulatory text. EPA is moving all of the subpart C text from 40 CFR part 710 to a new 40 CFR part 711 and adding a new scope and compliance section (40 CFR 711.1).

TABLE 1—DISTRIBUTION TABLE FOR 40 CFR PART 710, SUBPART C, REGULATORY TEXT

Old CFR citation	New CFR citation
40 CFR 710.43	40 CFR 711.3
40 CFR 710.45	40 CFR 711.5
40 CFR 710.46	40 CFR 711.6
40 CFR 710.48	40 CFR 711.8
40 CFR 710.49	40 CFR 711.9
40 CFR 710.50	40 CFR 711.10
40 CFR 710.52	40 CFR 711.15
40 CFR 710.53	40 CFR 711.20
40 CFR 710.55	40 CFR 711.22
40 CFR 710.57	40 CFR 711.25
40 CFR 710.58	40 CFR 711.30
40 CFR 710.59	40 CFR 711.35

Because all of the text of subpart C was moved to 40 CFR part 711, 40 CFR part 710 no longer has a subpart C. Neither 40 CFR part 710 nor 40 CFR part 711 have any subparts.

2. *Consolidate definitions.* As part of moving the regulatory text from 40 CFR part 710, subpart C, to 40 CFR part 711, EPA is consolidating definitions copied from 40 CFR 710.3 and 40 CFR 710.43 into the new 40 CFR 711.3, except where an appropriate definition is already in place in TSCA section 3 or at 40 CFR 704.3, and an additional definition of the term in 40 CFR 711.3 was therefore unnecessarily duplicative. The definitions in TSCA section 3 and at 40 CFR 704.3 are included in 40 CFR 711.3, except insofar as 40 CFR 711.3 provides a modified definition of a term also defined at 40 CFR 704.3.

The term *mixture* is defined in both 40 CFR 710.3 and TSCA section 3. For purposes of the CDR rule, EPA is including the definition of *mixture* from TSCA section 3 with the definitions at 40 CFR 711.3. The TSCA mixture definition differs from the definition in 40 CFR 710.3 and 40 CFR 720.3, the regulations used to determine the chemical substances listed on the TSCA Inventory, in that it does not specifically address hydrates. A hydrate is a mixture of water and an anhydrous chemical substance. Because they are mixtures, hydrates are not listed as such on the TSCA Inventory. For this reason, EPA believes it is superfluous to include a specific discussion of hydrates in the CDR definition of mixture. Please see the Instructions for the 2012 TSCA Chemical Data Reporting (Instructions document) for additional discussion (Ref. 7).

Unit III.C. contains further discussions about changes to specific definitions, in relation to the modifications included in this final rule. A summary of all CDR-related definitions is available in the docket (Ref. 8).

3. *Remove "non-isolated intermediate" definition from 40 CFR 710.3.* EPA added a definition to 40 CFR 710.43 for the term *non-isolated intermediate* as part of the 2003 IUR Amendments. Subsequently, as part of the IUR Revisions Rule, published in the **Federal Register** issue of December 19, 2005 (Ref. 9), EPA erroneously moved the definition to 40 CFR 710.3 from 40 CFR 710.43. EPA is removing the definition from 40 CFR 710.3 as this definition was not associated with the original TSCA Inventory, and therefore does not belong in 40 CFR 710.3. A definition of this term, codified elsewhere at 40 CFR 704.3, is included with the CDR definitions at 40 CFR 711.3.

4. *Remove 40 CFR part 710, subpart B.* EPA is removing the regulatory text contained in 40 CFR part 710, subpart B (40 CFR 710.23 to 710.39). This text refers to IUR submission periods of 2002 and earlier and is obsolete. As noted in 40 CFR 710.1, the Agency expressed its intent to remove 40 CFR part 710, subpart B, once the 2002 update was complete.

5. *Remove superfluous text associated with reporting production volumes.* EPA is removing the phrase "provided that the reported figures are within ±10% of the actual volume" from the production volume reporting requirements found in 40 CFR 710.52(c)(3)(iv), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(3)(iv). The revised wording would be "This amount must be reported to two significant figures of accuracy." The phrase that was removed is superfluous because any number reported accurately to two significant figures is within 10% of the correct value.

6. *Correct text associated with reporting number of sites and number of workers.* EPA is replacing the phrase "less than" with the phrase "fewer than" in the ranges used to report the number of workers found in the table in 40 CFR 710.52(c)(3)(v), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(3)(vii) and the number of sites found in the table in 40 CFR 710.52(c)(4)(i)(E), which appears in the new 40 CFR part 711 as 40 CFR 711.15(b)(4)(i)(E). This change makes the phrases describing the ranges grammatically correct.

B. What are the changes to the method of submission?

EPA is requiring the mandatory use of Agency-provided, web-based reporting tool (e-CDRweb) and CDX to submit the completed Form U to the Agency. After the final rule's effective date, EPA will no longer accept paper submissions or electronic media (*i.e.*, as a file on a CD–ROM) for any CDR submission.

In order to submit electronically to EPA via CDX, individuals acting on behalf of the submitter must first register with CDX. CDX registration is a requirement for all electronic submissions using CDX; this requirement predates this final rule. EPA has modified the 2006 Electronic Signature Agreement (ESA) Form to identify more clearly the individual(s) required to sign the ESA Form (Ref. 10). Each CDR submission must have an authorized official associated with the submission, who is the person signing the certification statement and submitting the CDR report via CDX. The authorized official must complete both an ESA Form and the CDX registration process. Companies can access the reporting tool upon completion of their CDX registration. The instruction manual and other guidance materials are available on EPA's Web site (*http://www.epa.gov/iur*).

C. What definitions have been modified or added to clarify the reporting requirements?

As part of developing the definition section for 40 CFR part 711, EPA is modifying six definitions associated with the CDR rule and adding four new definitions. In 40 CFR 704.3 and 40 CFR 710.3, EPA is also modifying the definition of *importer* by removing the citation to 19 CFR 1.11.

1. *Manufacture and manufacturer.* To improve the information submitted through the CDR rule, EPA is modifying the definition of *manufacture* by including elements from the 40 CFR 720.3 definition for *manufacturer*. The Agency is also adding a simple definition for the term *manufacturer* to 40 CFR 711.3. In addition to the change to the definition of *manufacture*, EPA is adding a paragraph (c) to the regulation at 40 CFR 711.22 to clarify the reporting relationship between the contracting company and the toll manufacturer. The contracting company and the toll manufacturer should confer with each other to avoid duplicate reporting, and both the contracting company and the toll manufacturer are liable if no report is made. EPA agreed with comments that the "primarily responsible" language that was proposed was confusing and needed to be revised. As a result, EPA modified paragraph (c) of 40 CFR 711.22 to clarify that the contracting company and the toll manufacturer should determine among themselves who should submit the required report for the site. EPA also added "per site" in two places in paragraph (c) of 40 CFR 711.22 to

specify that there is supposed to be one report per chemical substance, per site. See Unit III.C.2., for further discussion of the site for contract manufacturing situations.

This final rule defines the term *manufacture* under the CDR to mean:

To manufacture, produce, or import, for commercial purposes. Manufacture includes the extraction, for commercial purposes, of a component chemical substance from a previously existing chemical substance or a complex combination of substances. When a chemical substance, manufactured other than by import, is:

(1) Produced exclusively for another person who contracts for such production, and

(2) That other person specifies the identity of the chemical substance and controls the total amount produced and the basic technology for the plant process, then that chemical substance is co-manufactured by the producing manufacturer and the person contracting for such production.

This final rule defines the term *manufacturer* under the CDR to mean "a person who manufactures a chemical substance."

2. *Site.* EPA is amending the definition of *site* to clarify that the importer's site must be a U.S. address; accommodate manufacturing under contract; and accommodate portable manufacturing units. See Unit III.J., for a further discussion of this final rule as it relates to importers.

This final rule defines the term *site* under the CDR to mean:

A contiguous property unit. Property divided only by a public right-of-way shall be considered one site. More than one plant may be located on a single site.

(1) For chemical substances manufactured under contract, i.e., by a toll manufacturer, the site is the location where the chemical substance is physically manufactured.

(2) The site for an importer who imports a chemical substance described in 40 CFR 711.5 is the U.S. site of the operating unit within the person's organization that is directly responsible for importing the chemical substance. The import site, in some cases, may be the organization's headquarters in the United States. If there is no such operating unit or headquarters in the United States, the site address for the importer is the U.S. address of an agent acting on behalf of the importer who is authorized to accept service of process for the importer.

(3) For portable manufacturing units sent out to different locations from a single distribution center, the distribution center shall be considered the site.

3. *Electronic-reporting related definitions.* EPA is adding two new terms, *Central Data Exchange (CDX)* and *e-CDRweb*. The Agency is adding these terms to provide clarity to the requirement for electronic reporting of CDR data. The term *CDX* means "EPA's centralized electronic document receiving system, or its successors." The term *e-CDRweb* means the "electronic, web-based CDR tool provided by EPA for the completion and submission of the CDR data."

4. *Processing and use-related definitions.* EPA is amending the definitions of the terms *commercial use* and *consumer use* in order to make them more consistent with the definitions developed collaboratively by the United States and Canada. See Unit III.G.8.a., for further information. While the definitions for these two terms differ in their precise wording from the Canadian version (to preserve the use of terminology defined in CDR and related regulations), EPA does not expect the basic application of these two terms to differ from the basic application of the Canadian definitions (Ref. 11). The term *commercial use* means "the use of a chemical substance or a mixture containing a chemical substance (including as part of an article) in a commercial enterprise providing saleable goods or services." Examples included in the 40 CFR 710.43 definition have been eliminated. The slightly modified definition of *consumer use* is "the use of a chemical substance or a mixture containing a chemical substance (including as part of an article) when sold to or made available to consumers for their use." The restrictions associated with where a consumer would use the product have been removed.

EPA is adding a definition for the term *industrial function*. For the 2006 IUR, EPA defined *industrial use* and did not define *industrial function*. The inclusion of both definitions provides clarity for the industrial processing and use reporting requirements and makes the Agency's requirements consistent with those collaboratively developed with Canada (Ref. 11). Additional discussion of those requirements is in Unit III.G.7. With this final rule, *industrial function* means "the intended physical or chemical characteristic for which a chemical substance or mixture is consumed as a reactant; incorporated into a formulation, mixture, reaction product, or article; repackaged; or used."

5. *Principal reporting year and submission period.* As described in Unit II.A., EPA is changing the reporting frequency from every 5 years to every 4 years and requiring the reporting of production volumes for each calendar year since the last principal reporting year. EPA is modifying the terms *reporting year* and *submission period* to reflect these changes.

The term *reporting year* is modified to add the term "principal" and to replace the word "information" with "manufacturing, processing and use data." These changes are to indicate that the principal reporting year is the year in which most of the reported data are based. Under the final rule, the principal reporting year is the latest complete calendar year preceding the submission period. Additionally, EPA is removing the reference to "the calendar year at 5-year intervals thereafter" and removing the reference to "calendar year 2005." With these changes, the term *principal reporting year* is defined as "the latest complete calendar year preceding the submission period."

The term *submission period* is modified by removing the phrase "generated during the reporting year." With this change, the definition of *submission period* reflects that data for years in addition to the principal reporting year would be reported. With this change, the definition of *submission period* means "the period in which manufacturing, processing, and use data are submitted to EPA."

D. Has the reporting frequency been changed?

As proposed, EPA has changed the reporting frequency to every 4 years. The Agency has determined that reporting every 5 years is too infrequent and believes that returning reporting to every 4 years will provide data sufficiently current to meet Agency and public needs. After the 2012 submission period, the next submission period under the CDR rule will occur in 2016. The submission period will continue to occur in the year following the principal reporting year.

E. How have the reporting thresholds changed?

Reporting thresholds are used to determine when CDR reporting is required for a subject chemical substance at a manufacturing (including importing) site. EPA has made three changes related to the reporting thresholds:

- Determination of whether you meet the 25,000 lb threshold.
- Replacement of the 300,000 lb threshold for reporting information in Part III of Form U.
- Reduction of the 25,000 lb threshold for certain chemical substances.

1. *Method for determining whether a person is subject to CDR reporting requirements.* For the 2012 submission period, manufacturers (including importers) are required to report under the CDR rule if they manufacture

(including import) a chemical substance listed on the TSCA Inventory during the principal reporting year (*i.e.*, 2011 for the 2012 submission period); the chemical substance is not otherwise exempt; and the associated production volume (domestically manufactured plus imported volumes) at a site met or exceeded 25,000 lb during the principal reporting year (*i.e.*, 2011 for the 2012 submission period).

For submission periods subsequent to the 2012 submission period, the determination of the need to report is based on whether, for any calendar year since the last principal reporting year, a chemical substance was manufactured (including imported) at a site in production volumes of 25,000 lb or greater. For example, for the 2016 submission period, it would be necessary to examine the annual production volumes for the calendar years 2012 to 2015 for the site. If the production volume for a reportable chemical substance were 25,000 lb or greater for any calendar year during that 4-year period, then it would be necessary to report the chemical substance, unless it were otherwise exempt. For instance, a subject chemical substance with production volumes of 5,000 lb in 2015 and 35,000 lb in 2012 would be reported for the 2016 CDR. Regardless of the 2015 production volume, in this example scenario the 2016 CDR submission would contain detailed information based on the production volume during the 2015 calendar year and production volume information only for the years 2012 through 2014. See Unit III.D.1. of the proposed rule (Ref. 1) for further discussion.

EPA is finalizing this change because of the mounting evidence that many chemical substances, even larger production volume chemical substances, often experience wide fluctuations in production volume from year to year. (See Unit III.D.1. of the proposed rule (Ref. 1).) This can result in the production volume of a chemical substance exceeding the threshold for several years, then falling below the threshold during the CDR principal reporting year. EPA believes that using production volume reporting for all years since the last principal reporting year to determine reporting obligations will yield a much more accurate picture of the chemical substances currently in commerce, ensuring proper review under EPA's risk screening, assessment, and management activities and providing better information to the public. This issue is addressed further in Unit V.C. as well as in the "Summary of EPA's Responses to Public Comments Submitted in Response to Proposed TSCA Inventory Update Reporting Modifications Rule" (Responses to Comments document) (Ref. 12).

2. *Replacement of the 300,000 lb threshold for processing and use information.* EPA is replacing the 300,000 lb threshold for processing and use information by phasing in a lower reporting threshold. For the 2012 CDR, all submitters of non-excluded chemical substances are required to report processing and use information if they manufactured (including imported) 100,000 lb or more of a chemical substance in 2011. Subsequent to the 2012 submission period, the reporting threshold will be 25,000 lb (or 2,500 lb for chemical substances subject to 40 CFR 711.8(b)). EPA is replacing the 300,000 lb reporting threshold in order to collect information necessary to complete screening-level exposure characterizations for CDR reportable chemical substances. EPA is phasing in the lower threshold in order to give chemical manufacturers time to comply with the modified reporting requirements.

In order to select a threshold for processing and use reporting, EPA considered the burden of reporting as well as the Agency's needs for processing and use information on the maximum number of chemical substances. As discussed elsewhere in this preamble and other supporting documents, EPA identified that the processing and use data received from the 2006 IUR was not sufficient in part because it did not include information on many HPV and most moderate production volume (MPV) chemical substances that EPA was trying to assess. Therefore, in its proposal, EPA proposed lowering the processing and use reporting threshold from 300,000 lb to 25,000 lb in order to enable the Agency to collect exposure-related information needed to screen and prioritize the HPV and MPV chemical substances. EPA received comments suggesting that the Agency adopt a phased-in approach for reducing the threshold, similar to the approach used for introducing the requirement for reporting information for inorganic chemical substances. Manufacturers reporting for inorganic chemical substances were provided a one-time partial exemption for those substances for the 2006 IUR, thereby phasing in reporting. Other commenters suggested that because reporting of processing and use information for inorganic chemicals was not required for the 2006 IUR, the industry sector is still inexperienced with reporting such information and therefore should be given an opportunity to report under the existing thresholds. Another commenter suggested that EPA lower the processing and use threshold to 100,000 lb, which is consistent with one of the triggers for the small business exemption.

EPA agrees with a phased-in approach because it provides submitters with an opportunity to become familiar with the reporting requirements, while at the same time providing much needed and more complete processing and use information on chemical substances of interest to the Agency. Future reporting of the processing and use information by all submitters will provide EPA and others with needed additional information for those chemical substances with production volumes of 25,000 lb or more at a site. In the future, EPA may find it necessary to collect information on chemical substances at reporting thresholds below the thresholds introduced in this action.

Using the 2006 IUR data, EPA looked at the effect of setting the processing and use reporting threshold at various levels. Based on this information, lowering the threshold to 25,000 lb would not have brought in a significant number of new reporters for the 2012 submission period, because about 89% of companies and 86% of sites reported at least one chemical substance with a production volume of 300,000 lb or more in 2006 (Ref. 13). Therefore, most companies would be expected to be generally aware of the processing and use reporting requirements because the company would have reported such information on at least one chemical substance.

On a chemical-by-chemical basis, EPA's examination of the 2006 IUR data revealed that approximately 66% of the individual reports were above the 300,000 lb threshold, and that these reports covered approximately 60% of the chemical substances reported for the 2006 IUR. Lowering the threshold to 25,000 lb would result in processing and use information on 40% more chemicals and would have greatly informed EPA's Existing Chemicals Program. As discussed earlier, EPA recognized the need to allow companies time to become familiar with reporting the processing and use information, and therefore considered alternate reporting thresholds for the 2012 CDR. Lowering the threshold to 100,000 lb results in processing and use information on approximately 23% more chemical substances than the 300,000 lb threshold, while increasing the number of reports by only approximately 18%. EPA believes that the 100,000 lb threshold, as an interim threshold, provides an appropriate balance

between increasing the number of chemicals with processing and use information and increasing the reporting burden on industry. See the "Economic Analysis for the Final Inventory Update Reporting (IUR) Modifications Rule" (Economic Analysis) (Ref. 14) for further discussion.

The exposure information is an essential part of developing risk evaluations and, based on its experience in using this information, the Agency believes that collecting this exposure information is critical to its mission of characterizing exposure, identifying potential risks, and noting uncertainties for these lower production volume chemical substances. In addition, the lower thresholds will provide the public with information on a greater number of chemical substances. This issue is addressed further in Unit V.C.2., as well as in the Responses to Comments document (Ref. 12).

3. *Reduction of the 25,000 lb threshold for specific regulated chemical substances.* For the 2012 CDR, EPA is maintaining the 25,000 lb reporting threshold for chemical substances that are the subject of particular TSCA rules and/or orders. For future CDR collections, EPA is reducing the threshold (including the threshold for the collection of processing and use information) to 2,500 lb for those chemical substances (40 CFR 711.8(b)).

EPA proposed to eliminate the threshold, which would have required manufacturers (including importers) of such chemical substances to report under the CDR rule, regardless of the production volume. A number of commenters supported the proposal to eliminate the reporting threshold while others felt the requirement would be overly burdensome, especially for imported chemical substances or mixtures. In its proposal, EPA specifically asked for comment on whether a *de minimis* production volume threshold should be set for these chemical substances and how best to set such a *de minimis* threshold. Some commenters opposed setting a *de minimis* threshold and others suggested a variety of methods for establishing one.

For many of the reasons identified by commenters (*e.g.*, the expense and burden of collecting the information, and difficulty in knowing whether low-concentration chemical substances are present in formulated mixtures), EPA has decided to set a *de minimis* threshold and to delay its implementation. Beginning with the 2016 submission period, the reporting threshold will be reduced to 2,500 lb for those chemical substances that are:

- The subject of a rule proposed or promulgated under TSCA section 5(a)(2), 5(b)(4), or 6,
- The subject of an order issued under TSCA section 5(e) or 5(f), or
- The subject of relief that has been granted under a civil action under TSCA section 5 or 7.

(40 CFR 711.8(b))

For the 2016 submission period and submission periods thereafter, a manufacturer (including importer) of such chemical substances is required to report manufacturing information on the chemical substances if they are manufactured (including imported) in volumes of 2,500 lb or more during any of the years since the last principal reporting year (*e.g.*, 2011). Information on the processing and use of the chemical substances must be reported if they were manufactured (including imported) in volumes of 2,500 lb or more during any of the years since the last principal reporting year. In addition to the manufacturing, processing, and use information for the principal reporting year (*e.g.*, 2015), the production volumes for each year since the last principal reporting year must also be reported. For the 2016 submission period, for example, a manufacturer (including importer) must consider the manufactured or imported volume during the years 2012 through 2015 to determine the need to report; must report the production volumes for each year from 2012 to 2015; and must report the full manufacturing, processing, and use information for 2015.

Chemical substances that are the subject of these particular TSCA actions are of demonstrated high interest to the Agency. EPA is promulgating this change to help reduce the reporting burden for submitters and to ensure the availability of current information when the Agency has expressed a concern in the form of regulatory action on those chemical substances. EPA will use the CDR data associated with these specific regulated chemical substances to monitor chemical substance production and compliance with the particular TSCA actions. In the future, EPA may find it necessary to collect information on chemical substances at a reporting threshold below the 2,500 lb threshold introduced in this action. Although the 2,500 lb threshold is higher than the proposed threshold of zero, the enhanced information that will be gathered during the 2016 submission period will enable the Agency and others to more efficiently identify those chemical substances warranting further, more in-depth review, as well as chemical substances of lesser concern. See Unit V.C.3., for further discussion.

As under the 2006 IUR, if a manufacturer qualifies for the small manufacturer exemption at 40 CFR 711.9, it is exempt from CDR reporting. Nothing in this final rule affects the scope of this exemption at 40 CFR 711.9. However, because the reduction in the reporting threshold to 2,500 lb is generally applicable to all manufacturers of the subject chemical substances, for the 2016 submission period and subsequent submission periods, it may affect small manufacturers to the extent they are non-exempt under 40 CFR 711,9. As under the 2006 IUR, small manufacturers are generally exempt from CDR reporting but are specifically subject to reporting with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or is the subject of an order in effect under TSCA section 5(e), or is the subject of relief that has been granted under a civil action under TSCA section 5 or 7 (40 CFR 711.9). With the exception of rules proposed or promulgated under TSCA section 4, the same TSCA actions that make small manufacturers ineligible for a CDR exemption under 40 CFR 711.9 (with respect to the particular chemical substance that is the subject of the action) will also make those small manufacturers subject to the 2,500 lb reporting threshold in the 2016 submission period and subsequent submission periods (40 CFR 711.8(b)). The proposal or promulgation of a rule under TSCA section 4 affects the small manufacturer exemption but it does not affect the applicable reporting threshold under CDR.

In the proposed rule, EPA specifically sought comment on whether circumstances triggering an exception to the 25,000 lb reporting threshold for a chemical substance should include the proposal of certain rules for the chemical substance, under TSCA section 5(a)(2), 5(b)(4), or 6. EPA explained that such an approach would more closely parallel the exception language in the introductory paragraph to 40 CFR 711.6 and in 40 CFR 711.9. (See Unit III.D.3. of the proposed rule (Ref. 1)). Including these types of proposed rules in the list of triggering circumstances is also more consistent with reporting obligations under other parts of TSCA, such as 12(b). Among other situations, reporting under TSCA 12(b) is required when any rule under TSCA section 5 or 6 is proposed or promulgated. In response to the comments received, EPA has determined that chemical substances

subject to a rule proposed under TSCA section 5(a)(2), 5(b)(4), or 6 will be excepted from the 25,000 lb reporting threshold, and thus will be reportable at 2,500 lb beginning with the 2016 CDR. See Unit V.C.3., for further discussion.

F. What are the changes to the chemical substances covered by CDR?

1. *Water.* EPA is fully exempting all (both naturally occurring and manufactured) water (Chemical Abstracts Service Registry Number (CASRN) 7732–18–5) (40 CFR 711.6(a)(4)) from reporting under the CDR rule.

2. *Fully exempt polymers removed from partially exempt list.* Polymers are a class of chemical substances for which CDR reporting is not required (40 CFR 711.6(a)(1)). However, three polymers were previously listed in the partially exempt list of chemical substances at 40 CFR 710.46(b)(2)(iv): Starch (CASRN 9005–25–8), dextrin (CASRN 9004–53–9), and maltodextrin (CASRN 9050–36–6). EPA has removed from the partially exempt list of chemical substances at 40 CFR 711.6(b)(2)(iv) these three chemical substances which, as polymers, are fully exempt from reporting.

3. *Chemical substances that are the subject of an ECA are ineligible for exemptions.* EPA may enter into an ECA, pursuant to procedures at 40 CFR part 790, with a manufacturer of a chemical substance to obtain testing where a consensus exists among EPA, affected manufacturers and/or processors, and interested members of the public concerning the need for and scope of testing. Chemical substances that are the subject of an ECA are now included in the list of chemical substances that are ineligible for a CDR exemption, in the introductory paragraph of 40 CFR 711.6, along with the other chemical substances that are likewise not eligible for a CDR exemption. The paragraph states that a chemical substance "is not exempted from any of the reporting requirements of this part if that substance is the subject of a rule proposed or promulgated under section 4, 5(a)(2), 5(b)(4), or 6 of the Act, or is the subject of a consent agreement developed under the procedures of 40 CFR part 790, or is the subject of an order issued under section 5(e) or 5(f) of the Act, or is the subject of relief that has been granted under a civil action under section 5 or 7 of the Act."

G. What changes have been made to reportable data elements?

1. *Parent company and site identity.* Manufacturers (including importers) are required to report the company name and Dun & Bradstreet D–U–N–S® ((D&B) number) to identify the company associated with the plant site, and also to report the site name, address, and D&B number. If the company associated with the plant site does not have a D&B number, the manufacturer (including importer) must obtain one for the company. Likewise, if the plant site does not have a D&B number, the manufacturer (including importer) must obtain one for the site. EPA received a variety of questions concerning the correct company name to report during the 2006 IUR submission period. EPA is now clarifying what is meant by company name, by requiring at 40 CFR 711.15(b)(2)(ii) that the company name provided be the U.S. parent company name and defining "U.S. parent company," at 40 CFR 711.3, to mean "the highest level company, located in the United States, that directly owns at least 50% of the voting stock of the manufacturer." As noted in the proposed rule (Ref. 1), EPA believes that using an approach that is consistent with the Toxics Release Inventory (TRI) reporting requirements would be most clear both for reporters and users of the data. The CDR definition of "U.S. parent company name" is consistent with the use of the term of "parent company" in section 5 of the 2009 Toxic Chemical Release Inventory Reporting Forms and Instructions (Ref. 15). The 2006 IUR submissions from different reporting sites contained varying D&B numbers for parent companies that appeared to be the same company. In order to better identify when reporting sites are under the same parent company, EPA is requiring the address as well as the D&B number of the parent company.

2. *Technical contact.* Manufacturers (including importers) are required to provide a technical contact for their CDR submission. The technical contact does not have to be a person located at the manufacturing (including importing) site, but must be a person who can answer questions EPA may have about the reported chemical substance. In the proposed rule, EPA had stated that the technical contact should be a person located at the manufacturing (including importing) site. EPA has decided, however, to not impose limitations on where the technical contact can be located. Therefore, companies may use their discretion in selecting a technical contact or multiple technical contacts, as provided by the new e-CDRweb tool. Submitters should consider, in selecting the technical contact, that EPA may have follow-up questions about a CDR submission, one or more years after the submission date.

3. *Chemical identification.* Manufacturers (including importers) are required to submit the correct chemical identity for each subject chemical substance.

a. *Chemical name.* EPA is requiring the reporting of the Chemical Abstracts (CA) Index Name currently used to list the chemical substance on the TSCA Inventory as the chemical name reported for CDR. The reporting tool will be directly linked to the non-confidential portion of the TSCA Inventory through the Agency's Substance Registry Services (SRS) database, which lists all chemical substances on the TSCA Inventory. This link will enable submitters to select the correct CA Index Name for their reportable chemical substance(s) from SRS. EPA believes that using SRS to select the chemical name as currently listed on the TSCA Inventory will greatly reduce the number of incorrectly identified chemical substances and allow the data to be released more quickly to the public. See the discussion in Unit III.G.3.c. regarding identifying confidential chemical substances. Manufacturers (including importers) are allowed to supply, as part of a joint submission, an alternate chemical name, and in the case of importers, a trade name, in those instances where a supplier will not disclose to the submitter the specific chemical name of the imported TSCA Inventory chemical substance or a reactant used to manufacture the TSCA Inventory chemical substance. In these cases, the manufacturer (including importer) and the supplier may report the information required in this part in a joint submission. In order to clarify this requirement, EPA is amending 40 CFR part 711.15(b)(3)(i), to state that the importer must ask the supplier of the confidential chemical substance to directly provide EPA with the correct chemical identity, in a joint submission with the manufacturer. Similarly, in the event a manufacturer submitting a Form U cannot provide the whole chemical identity because the reportable chemical substance is manufactured using a reactant having an unknown specific chemical identity claimed as confidential by its supplier, the manufacturer must ask that the supplier directly provide to EPA the correct chemical identity of the confidential reactant in a joint submission. Nothing in 40 CFR 711.15(b)(3)(i) relieves a manufacturer (including an importer) of its obligation to report information that it actually knows or can reasonably ascertain. See Unit III.J.2., for additional information regarding joint submissions.

Detailed instructions regarding joint submissions are included in the Instructions document included in the docket (Ref. 7).

b. *Chemical identifying number.* As part of the chemical identity, submitters provide a chemical identifying number associated with the correct CA Index Name, as described in Unit III.G.3.a. EPA is requiring that submitters report only the CASRN as a chemical identifying number, except in the case of confidential chemical substances. In the case of confidential chemical substances, EPA is requiring that submitters report only the TSCA Accession Number as a chemical identifying number. EPA is removing the Premanufacture Notification (PMN) number as an allowed chemical identifying number because each TSCA Inventory chemical substance has either (or both) a CASRN or a TSCA Accession Number, which are likely to be already known to the submitter. Submitters who, in the past, have reported using the PMN number of a confidential substance can identify the TSCA Accession Number from SRS by searching on the PMN number. Those submitters who are not able to identify the TSCA Accession Number by searching SRS may contact EPA in writing, if necessary, to learn the TSCA Accession Number assigned when the Notice of Commencement (NOC) was submitted to the Agency. Specific information is included in the Instructions document (Ref.7).

c. *Chemical identity for chemical substances listed on the confidential portion of the TSCA Inventory.* In cases where a chemical substance is listed on the confidential portion of the TSCA Inventory, submitters are to report the chemical substance's TSCA Accession Number and generic name, which are listed on the non-confidential portion of the TSCA Inventory and are included in SRS. In order to continue to protect the confidentiality of the underlying specific chemical identification information (*i.e.*, the CASRN and specific chemical name), the submitter must claim the chemical identity as CBI and complete the upfront substantiation. Doing so will maintain a confidentiality claim for the underlying CASRN and specific chemical name on the confidential portion of the TSCA Inventory (the TSCA Accession Number and generic chemical name remain non-confidential). Failure to identify the chemical identity as CBI and complete the upfront substantiation will waive any CBI claim to the chemical identity and will result in the transfer of the chemical substance from the confidential portion of the TSCA Inventory to the non-confidential, publicly releasable, portion of the TSCA Inventory.

4. *Production volume.* Manufacturers (including importers) are required to report production volume information for each chemical substance for which they submit a CDR report. EPA has made a number of changes to the reporting of production volume and associated information.

a. *Report production volume for each of the years since the last principal reporting year.* In addition to the production volume for the principal reporting year, EPA is requiring the reporting of production volume for 2010 for the 2012 submission period and for each of the years since the last principal reporting year beginning with the 2016 submission period. More specifically, for the 2012 submission period, manufacturers (including importers) will be required to report the total annual volume (domestically manufactured and imported volumes in pounds) of each reportable chemical substance at each site during calendar year 2010. For submission periods subsequent to the 2012 submission period, manufacturers (including importers) will be required to report the total annual volume (domestically manufactured and imported volumes in pounds) of each reportable chemical substance at each site for each complete calendar year since the last CDR principal reporting year. For example, for the 2016 submission period, manufacturers (including importers) of a reportable chemical substance will report the production volume of that chemical substance for each of the following calendar years: 2015, 2014, 2013, and 2012.

EPA had proposed that this requirement begin in full starting with the current submission period, which would have required submitters to report production volumes for 2006 through 2010 for the 2012 submission period. Several commenters supported the proposed change while others stated that the requirement would be overly burdensome, especially for the submission period immediately following promulgation of this rule. Some commenters recommended that EPA delay the implementation of the requirement until the next reporting cycle to allow companies sufficient time to prepare for the additional data collection effort. In response to the comments received, EPA believes its decision to defer this requirement until the next reporting cycle is warranted in light of other simultaneous changes to the CDR rule which increase reporting burden. The Agency also believes the delay will give companies adequate time to establish systems to collect and compile the required information.

For the principal reporting year, *e.g.*, 2011, the domestic manufacture and the import production volume will continue to be reported separately on the same report. EPA review and analysis of the 2006 IUR data has revealed that some submitters are erroneously submitting multiple reports for the same chemical substance, at times reporting the information associated with domestic manufacturing and importing in different reports. Submitters should complete only one report for each chemical substance.

b. *Volume of chemical substance used on-site.* EPA is requiring that submitters report the volume of a manufactured (including imported) chemical substance used at the reporting site. The requirement to report the volume used on-site is replacing the requirement to indicate that the chemical substance is site-limited. Under this final rule, either domestically manufactured or imported chemical substances can be reported as used at the reporting site.

c. *Indicate whether imported chemical substances are physically at the reporting site.* EPA is adding a requirement to indicate whether an imported chemical substance is physically at the reporting site. Often, the site reporting an imported chemical substance never physically receives the chemical substance, but instead ships it directly to another location such as a warehouse, a processing or use site, or a customer's site.

d. *Report volume exported.* EPA is adding a requirement to report the production volume directly exported and not domestically processed or used. This will allow EPA to better identify the proportion of the production volume accounted for by the processing and use reporting, given that such downstream reporting is not required for directly exported chemical substances.

5. *Identify whether a chemical substance is to be recycled, remanufactured, reprocessed, or reused.* In the proposed rule, EPA sought comment on adding a checkbox indicating whether a manufactured chemical substance was recycled, remanufactured, reprocessed, reused, or reworked. In response to the comments received, EPA has determined that the term "reworked" may be interpreted and applied too broadly to provide the type of information that EPA needs to collect and has removed "reworked" from the list of recycling synonyms, but has chosen to otherwise finalize this reporting requirement as proposed. Consequently, EPA is adding a

requirement to indicate whether a manufactured chemical substance, such as a byproduct, is to be recycled, remanufactured, reprocessed, or reused. Submitters should indicate whether their manufactured chemical substance, which otherwise would be disposed of as a waste, is being removed from the waste stream and has a commercial purpose (*i.e.*, it is being recycled, remanufactured, reprocessed, or reused). Indicating that a manufactured chemical substance, such as a byproduct, is to be recycled, remanufactured, reprocessed, or reused does not affect the reporting requirements associated with any chemical substance manufactured from the byproduct. See Unit IV.2., for detailed information on byproduct reporting.

6. *Concentration ranges.* EPA is eliminating gaps in the ranges used to report concentration in 40 CFR 711.15(b)(3) and (b)(4). The ranges are now:

- Less than 1% by weight.
- At least 1% but less than 30% by weight.
- At least 30% but less than 60% by weight.
- At least 60% but less than 90% by weight.
- At least 90% by weight.

7. *Industrial processing and use information reporting.* EPA is revising the list of industrial function categories and replacing the NAICS codes with industrial sector categories, as described in Unit III.G.7.a. and b.

a. *Industrial function categories.* EPA is revising the list of industrial function categories by combining categories that lead to common exposure scenarios and adding categories where the Agency believes the existing categories do not adequately describe potential uses. EPA worked with Environment Canada and Health Canada to develop the set of categories, which will be used by both the United States and Canada for inventory reporting (Ref. 11).

EPA is adding eight new industrial function categories and removing six existing categories from the previous list; the total number of industrial function categories has increased to 35. Also, EPA is renaming several of the industrial function categories to provide a more informative description of the function of chemical substances that should be reported in that category. Lastly, EPA is requiring that if a submitter selects the category "Other," the submitter must provide its own description of the industrial function of the chemical substance. EPA is using the industrial function categories listed in Table 2 of this unit:

TABLE 2—CODES FOR REPORTING INDUSTRIAL FUNCTION CATEGORIES

Code	Category
U001	Abrasives.
U002	Adhesives and sealant chemicals.
U003	Adsorbents and absorbents.
U004	Agricultural chemicals (non-pesticidal).
U005	Anti-adhesive agents.
U006	Bleaching agents.
U007	Corrosion inhibitors and anti-scaling agents.
U008	Dyes.
U009	Fillers.
U010	Finishing agents.
U011	Flame retardants.
U012	Fuels and fuel additives.
U013	Functional fluids (closed systems).
U014	Functional fluids (open systems).
U015	Intermediates.
U016	Ion exchange agents.
U017	Lubricants and lubricant additives.
U018	Odor agents.
U019	Oxidizing/reducing agents.
U020	Photosensitive chemicals.
U021	Pigments.
U022	Plasticizers.
U023	Plating agents and surface treating agents.
U024	Process regulators.
U025	Processing aids, specific to petroleum production.
U026	Processing aids, not otherwise listed.
U027	Propellants and blowing agents.
U028	Solids separation agents.
U029	Solvents (for cleaning or degreasing).
U030	Solvents (which become part of product formulation or mixture).
U031	Surface active agents.
U032	Viscosity adjustors.
U033	Laboratory chemicals.
U034	Paint additives and coating additives not described by other categories.
U999	Other (specify).

b. *IS codes.* EPA is replacing the 5-digit NAICS codes with 48 IS codes (Ref. 16). The sectors were adapted from the European Union's (EU's) "Guidance on Information Requirements and Chemical Safety Assessment." The IS codes divide the entire range of NAICS codes into sectors so that there is a sector corresponding to any NAICS code (see the Instructions document, Ref. 7). The use of the sectors will reduce the number of unique combinations, thereby increasing the usability of the data, and also reducing the CDR reporting burden.

EPA is using the 48 sectors listed in Table 3 of this unit:

TABLE 3—INDUSTRIAL SECTORS

Code	Sector description
IS1	Agriculture, Forestry, Fishing and Hunting.
IS2	Oil and Gas Drilling, Extraction, and support activities.
IS3	Mining (except Oil and Gas) and support activities.
IS4	Utilities.
IS5	Construction.
IS6	Food, beverage, and tobacco product manufacturing.
IS7	Textiles, apparel, and leather manufacturing.
IS8	Wood Product Manufacturing.
IS9	Paper Manufacturing.
IS10	Printing and Related Support Activities.
IS11	Petroleum Refineries.
IS12	Asphalt Paving, Roofing, and Coating Materials Manufacturing.
IS13	Petroleum Lubricating Oil and Grease Manufacturing.
IS14	All other Petroleum and Coal Products Manufacturing.
IS15	Petrochemical Manufacturing.
IS16	Industrial Gas Manufacturing.
IS17	Synthetic Dye and Pigment Manufacturing.
IS18	Carbon Black Manufacturing.
IS19	All Other Basic Inorganic Chemical Manufacturing.
IS20	Cyclic Crude and Intermediate Manufacturing.
IS21	All Other Basic Organic Chemical Manufacturing.
IS22	Plastics Material and Resin Manufacturing.
IS23	Synthetic Rubber Manufacturing.
IS24	Organic Fiber Manufacturing.
IS25	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing.
IS26	Pharmaceutical and Medicine Manufacturing.
IS27	Paint and Coating Manufacturing.
IS28	Adhesive Manufacturing.
IS29	Soap, Cleaning Compound, and Toilet Preparation Manufacturing.
IS30	Printing Ink Manufacturing.
IS31	Explosives Manufacturing.
IS32	Custom Compounding of Purchased Resins.
IS33	Photographic Film, Paper, Plate, and Chemical Manufacturing.
IS34	All Other Chemical Product and Preparation Manufacturing.
IS35	Plastics Product Manufacturing.
IS36	Rubber Product Manufacturing.
IS37	Non-metallic Mineral Product Manufacturing (includes clay, glass, cement, concrete, lime, gypsum, and other non-metallic mineral product manufacturing).
IS38	Primary Metal Manufacturing.
IS39	Fabricated Metal Product Manufacturing.
IS40	Machinery Manufacturing.
IS41	Computer and Electronic Product Manufacturing.
IS42	Electrical Equipment, Appliance, and Component Manufacturing.
IS43	Transportation Equipment Manufacturing.
IS44	Furniture and Related Product Manufacturing.
IS45	Miscellaneous Manufacturing.
IS46	Wholesale and Retail Trade.
IS47	Services.
IS48	Other (requires additional information).

When the category reported for the IS code is "Other," the submitter is required to provide a written description of the use of the chemical substance, which may include the NAICS code.

8. *Consumer and commercial use reporting.* EPA is making four changes to the consumer and commercial information required to be reported:

- Revising and expanding the list of consumer and commercial product categories.
- Requiring the provision of a description when the product category "Other" is reported.
- Identifying whether the use is a consumer or a commercial use, or both.
- Reporting the number of commercial workers reasonably likely to be exposed while using the reported chemical substance.

Reporting associated with children's use, the maximum concentration, and the percent production volume remains unchanged.

a. *Consumer and commercial product categories.* EPA is revising the list of consumer and commercial product categories by combining categories that lead to common exposure scenarios and adding categories that were not adequately described in the initial set of categories. EPA worked with Environment Canada and Health Canada to develop the categories. Harmonized categories will facilitate consistent reporting of chemical substance use information by industry in the United States and Canada (Ref. 11).

The list includes 33 product categories, including "Other." Examples of new categories which have been added include explosive materials, building/construction products not covered elsewhere, and air care products. The glass and ceramic products category had relatively few 2006 IUR submissions and overlaps with the new categories, and so has been eliminated. Also, several of the consumer and commercial product categories have been renamed to better describe the products that should be

reported in those categories. In addition to revising the overall product categories, narrower definitions and expanded lists of examples of products in which the chemical substance would be used will be added to each category descriptor. The examples were selected to include items that could have fit into other categories in order to address the overlap inherent in any product category list. The product categories were then placed into several broader groupings, e.g., "Chemicals with Agriculture and Outdoor Uses" based on the similarities of products. EPA believes that the user will find the current groupings easier to use than the alphabetical listing used for the 2006 IUR. EPA is also requiring that if a submitter chooses the product category "Other," the submitter must include a text description for the consumer and commercial product containing the chemical substance.

EPA is using the consumer and commercial product categories listed in Table 4 of this unit:

TABLE 4—CODES FOR REPORTING CONSUMER AND COMMERCIAL PRODUCT CATEGORIES

Code	Category
	Chemical Substances in Furnishing, Cleaning, Treatment Care Products
C101	Floor Coverings.
C102	Foam Seating and Bedding Products.
C103	Furniture and Furnishings not covered elsewhere.
C104	Fabric, Textile, and Leather Products not covered elsewhere.
C105	Cleaning and Furnishing Care Products.
C106	Laundry and Dishwashing Products.
C107	Water Treatment Products.
C108	Personal Care Products.
C109	Air Care Products.
C110	Apparel and Footwear Care Products.
	Chemical Substances in Construction, Paint, Electrical, and Metal Products
C201	Adhesives and Sealants.
C202	Paints and Coatings.
C203	Building/Construction Materials—Wood and Engineered Wood Products.
C204	Building/Construction Materials not covered elsewhere.
C205	Electrical and Electronic Products.
C206	Metal Products not covered elsewhere.
C207	Batteries.
	Chemical Substances in Packaging, Paper, Plastic, Toys, Hobby Products
C301	Food Packaging.
C302	Paper Products.
C303	Plastic and Rubber Products not covered elsewhere.
C304	Toys, Playground, and Sporting Equipment.
C305	Arts, Crafts, and Hobby Materials.
C306	Ink, Toner, and Colorant Products.
C307	Photographic Supplies, Film, and Photochemicals.
	Chemical Substances in Automotive, Fuel, Agriculture, Outdoor Use Products
C401	Automotive Care Products.
C402	Lubricants and Greases.
C403	Anti-Freeze and De-icing Products.
C404	Fuels and Related Products.
C405	Explosive Materials.
C406	Agricultural Products (non-pesticidal).
C407	Lawn and Garden Care Products.
	Chemical Substances in Products not Described by Other Codes
C980	Non-TSCA Use.
C909	Other (specify).

b. *Designation of consumer or commercial use.* EPA is requiring submitters to designate, via a checkbox, whether the indicated product category is a consumer or a commercial use, or both.

c. *Number of commercial workers reasonably likely to be exposed.* EPA is requiring that submitters report the total number of commercial workers, including those at sites not under the submitter's control, that are reasonably likely to be exposed while using the reportable chemical substance, with respect to each commercial use. The approximate number of workers should be reported using the same definitions and ranges used for manufacturing and industrial processing and use workers required by 40 CFR 711.15(b)(3)(vii) and (b)(4)(i)(F), respectively. The ranges are:

- Fewer than 10 workers.
- At least 10 but fewer than 25 workers.
- At least 25 but fewer than 50 workers.
- At least 50 but fewer than 100 workers.
- At least 100 but fewer than 500 workers.

- At least 500 but fewer than 1,000 workers.
- At least 1,000 but fewer than 10,000 workers.
- At least 10,000 workers.

H. What changes have been made to the standard for the reporting of processing and use information?

In order to collect more complete information regarding industrial processing and use, and commercial and consumer use of chemical substances, EPA is, in 40 CFR 711.15(b)(4), replacing the "readily obtainable" reporting standard used for reporting under 40 CFR 710.52(c)(4) with the "known to or reasonably ascertainable by" reporting standard set forth under TSCA section 8(a)(2). This is the same standard that applied to the reporting of information described in the regulations at 40 CFR 710.52(c)(1), (c)(2), and (c)(3) for the 2006 IUR submission, and this standard continues to apply to the reporting of such information under 40 CFR 711.15(b)(1), (b)(2), and (b)(3). This standard covers all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

Under the standard, a submitter would therefore prepare its report about the processing and use of a chemical substance it manufactures (including imports), without confining its inquiry solely to what is known to managerial and supervisory employees, but would also be expected to review information which the manufacturer (including importer) may have in their possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know. The inquiry would be as extensive as a reasonable person, similarly situated, might be expected to perform. The standard does not necessarily require that the manufacturer conduct an exhaustive survey of all employees.

"Known to or reasonably ascertainable" information includes, but is not limited to, information that may be possessed by employees or other agents of the company reporting under the CDR rule, including persons involved in the research, development, manufacturing, or marketing of a chemical substance and includes knowledge gained through discussions, symposia, and technical publications. Examples of types of information that are considered to be in a person's possession or control, or that a reasonable person similarly situated might be expected to posses, control, or know, include files maintained by the submitter, such as marketing studies, sales reports, or customer surveys; information contained in standard references, such as MSDSs, that contain use information or concentrations of chemicals in mixtures; and information from the CASRN and from the D&B number.

The following hypothetical examples illustrate the anticipated application of the "known to or reasonably ascertainable standard," in the specific context of the collection of processing and use data under the CDR. Because the standard applies on a case-by-case basis, however, these examples cannot substitute for a complete analysis of a submitter's particular circumstances:

Company XYZ discovers that it has no knowledge of how a particular reportable chemical substance (chemical substance #1) is processed or used by its customers. Company XYZ usually maintains marketing data documenting customers' use of its chemicals, in line with the reasonable business practices typical of comparable manufacturers, but it irrevocably lost these data for chemical substance #1 due to an inadvertent computer malfunction. Company XYZ has many customers, but it expects that it could substantially reconstruct this missing information by briefly contacting its largest customer and asking that customer how chemical substance #1 is generally used. Company XYZ contacts this customer, reports on the basis of the processing and use. data that the customer was willing to provide. Company XYZ has likely fulfilled its duties under the reporting standard. Company XYZ would not have fulfilled its duties under the reporting standard if it had not endeavored to supplement the information it already knew.

Company XYZ has never maintained information on how a particular reportable chemical substance (chemical substance #2) is processed or used by its customers. However, it is typical for comparable manufacturers to collect such information as part of their reasonable business practices. Company XYZ has many customers but it expects that it could substantially fill this data gap by reviewing the public Web site of its largest customer. Company XYZ reviews this Web site, and reports on the basis of the information contained in the Web site. Company XYZ has likely fulfilled its duties under the reporting standard. Company XYZ would not have fulfilled its duties under the reporting standard if it had not endeavored to supplement the information it already knew.

Company ABC maintains seasonal marketing data on changes in use patterns for a particular chemical substance (chemical substance #3). Comparable manufacturers typically only maintain such data on an annual basis, in line with reasonable business practices. Company ABC irrevocably loses its summer marketing data for Substance #3, due to an inadvertent computer malfunction. Company ABC expects that it could substantially reconstruct the missing summer marketing data by contacting its largest customer and asking the customer what it used or processed chemical substance #3 for in the past summer. Nevertheless, instead of attempting to reconstruct the summer data in this manner, Company ABC reports on the basis of the processing and use data that it already knows (regarding the winter, spring, and fall of the year). Company ABC has likely fulfilled its duties under the reporting standard. Company ABC would not have fulfilled its duties under the reporting standard if it designated the information as "not known or reasonably ascertainable" simply because one of the seasonal marketing reports was missing.

Company ABC has never maintained information on how a particular reportable chemical substance (chemical substance #4) is processed or used by its customers. However, it is typical for comparable manufacturers to collect such information as part of their reasonable business practices. Company ABC has one major customer and ten minor customers. Company ABC asks its major customer to supply information about how chemical substance #4 is processed and used, but that customer is unwilling to supply this information. Company ABC reasonably expects that the only remaining way to substantially fill this data gap would be to send a survey to its ten minor customers. Company ABC reports that the information is "not known or reasonably ascertainable" to it. Company ABC has likely fulfilled its duties under the reporting standard.

EPA would like furthermore to clarify that submitters are not required to conduct a new or additional customer survey (*i.e.*, to pose a comprehensive set of identical questions to multiple customers) under this standard. If particular information cannot be derived or reasonably estimated from the information available to the company without conducting further customer surveys, it is not "known to or reasonably ascertainable" to the submitter for purposes of the CDR. However, to the extent that customer surveys are already in the submitter's possession or control, and to the extent that reasonable efforts to analyze or

derive information from already-available customer surveys may inform processing and use information that is reported, the information is generally "known to or reasonably ascertainable." See Unit V.E.1., and the Responses to Comments document (Ref. 12) for further discussion. EPA's reporting tool permits submitters to enter or select "NKRA" on Form U to address circumstances where the information is not known to or reasonably ascertainable by the submitter.

I. What changes have been made to requirements for making CBI claims?

EPA is making several changes to the requirements for claiming information as confidential. Submitters may claim certain information reported under the CDR as CBI in accordance with 40 CFR part 2 and CDR rules at 40 CFR 711.30. Claims of confidentiality may be made for chemical identity, site identity, and processing and use information, and submitters must substantiate these claims at the time information is submitted to EPA. EPA's procedures for handling information claimed as confidential are set forth at 40 CFR part 2, subpart B. EPA strongly encourages submitters to review confidentiality claims carefully to ensure that the information in question falls within the parameters of TSCA section 14. EPA cautions submitters that they may be subject to criminal penalties under 18 U.S.C. 1001 if they knowingly and willfully make a false statement in connection with the assertion of a CBI claim. CBI claims should be limited to only those data elements the release of which would likely cause substantial harm to the business' competitive position. Interested persons are reminded that with regard to chemical substance use information, EPA is interested in aggregated, general uses, not detailed uses associated with specific customers.

To claim information as confidential, a submitter must indicate its claim by both checking the appropriate box and signing the certification statement on the reporting form, and may also be required (depending on the data element) to provide substantiation of the claim at the time it is made. A submitter must indicate its claims at the time the information is submitted. If a submitter fails to follow these procedures, EPA may release the information to the public without further notice to the submitter. By signing the certification statement the submitter attests to the secrecy and value of the information for which confidentiality claims have been asserted.

1. *Chemical identity CBI claims.* There is no substantive change to submitters' ability to make confidentiality claims for chemical identity in the CDR. As in the past, a submitter may assert a claim of confidentiality for the identity of the reported chemical substance only when the chemical substance is listed on the confidential portion of the TSCA Inventory. Submitters who assert a confidentiality claim for chemical identity must also provide substantiation for the claim at time of filing. See 40 CFR 711.30(b).

However, in response to comments, this final rule includes some changes to the process that must be used to make this type of CBI claim. The proposed rule, at 40 CFR 711.15(b)(3)(i), provided that "[a] submitter under this part may use an EPA-designated TSCA Accession Number for a confidential chemical substance in lieu of a CASRN when a CASRN is not known to or reasonably ascertainable by the submitter." In the proposed rule, EPA also noted that up to 5% of the reports submitted under the 2006 IUR contained chemical identity problems. EPA therefore proposed to require that submitters report using the CA Index Name currently used to list the chemical substance on the TSCA inventory. EPA further indicated that it would include CASRNs and CA Index Names into the e-CDRweb tool, to the extent possible without jeopardizing confidentiality claims. EPA believes that selecting chemical identity from a pre-populated list, rather than keying in the chemical identity information, will significantly improve the accuracy and consistency of submitted reports.

EPA received several comments from industry groups requesting that the e-CDRweb tool include security safeguards to adequately protect CBI. In light of the security concerns expressed in public comments, EPA has decided not to include CASRNs and CA Index Names for chemical substances on the confidential portion of the TSCA Inventory into the portions of the e-CDRweb tool that will be publicly accessible. However, EPA still believes it is important to require that all chemical identities be selected from a pre-populated list, to avoid repeating the chemical identity problems experienced with the 2006 IUR. Therefore, 40 CFR 711.15(a)(3)(i) has been revised in this final rule to require that submitters who wish to report chemical substances listed on the confidential portion of the TSCA Inventory use the chemical substance's TSCA Accession Number and generic name. Requiring the use of TSCA Accession Numbers and generic names will allow EPA to adequately protect confidential CASRNs and CA Index Names (by omitting them from the pre-populated selection list) while still obtaining the improvements in reporting accuracy it sought in the proposed rule.

In SRS, a submitter can readily find a cross-reference list that displays the TSCA Accession Number, generic chemical name, and the PMN case number (or for an initial TSCA Inventory chemical substance, the TSCA Inventory reporting form number) for any confidential chemical substance listed on the TSCA Inventory. Submitters who wish to retain the CBI claim for the chemical substance identified by the TSCA Accession Number must assert and substantiate the claim at time of filing. Submitters who do not wish to retain the CBI claim for the chemical substance identity, and who wish the chemical substance to be listed on the public portion of the TSCA Inventory, should not assert a CBI claim or provide substantiation. Submitters who fail to follow the required procedures for asserting CBI claims for chemical identity will waive the claims, and EPA may release the information without further notice to the submitter. See the regulatory text at 40 CFR 711.30(e).

2. *Upfront substantiation for processing and use information CBI claims.* Under the CDR, a submitter may assert a claim of confidentiality for data associated with the processing and use of its chemical substance if the submitter has reason to believe that release of the information would reveal trade secrets, or confidential commercial or financial information, as provided by TSCA section 14 and 40 CFR part 2. Under this final rule, EPA is requiring upfront substantiation for CBI claims for processing and use information.

In order to submit a claim of confidentiality for processing and use information data elements, the submitter is required (in addition to signing the certification statement) to both check the appropriate box on the reporting form and substantiate the claim in writing, within the reporting tool, by answering certain questions provided in 40 CFR 711.30(d). EPA revised the substantiation question at 40 CFR 711.30(d)(1)(ii), respecting competitive harm, to include harmful effect "to your customer's competitive position." Where a submitter fails to submit substantiation of the processing and use CBI claim in accordance with the applicable rules (*i.e.*, the submitter does not provide an answer to all the required questions associated with the

claim on the Form U it submits via e-CDRweb), EPA will consider the information not subject to a confidentiality claim and may make the information available to the public without further notice to the submitter.

3. *Prohibition of confidentiality claims for data elements identified as "not known or reasonably ascertainable."* EPA is prohibiting claims of confidentiality pertaining to the designation that information is "not known or reasonably ascertainable." As described in Unit II.A., for the 2012 and future CDR collections, submitters will be required to report processing and use information to the extent that it is known to or reasonably ascertainable by them.

For the 2006 IUR collection, EPA observed that, on occasion, processing and use information was claimed as confidential when a submitter determined that the information was not readily obtainable. Section 14 of TSCA limits the disclosure of information entitled to confidential treatment under exemption 4 of the Freedom of Information Act (FOIA). EPA has considered the NKRA designation and its relationship to a potential CBI or trade secret claim. Given that a NKRA assertion is an assertion that no information is available, the Agency does not believe that the designation conveys trade secret or confidential commercial or financial information.

J. What changes specifically affect importers?

1. *Importer site address.* Submitters report CDR data on chemical substances that they manufacture domestically and that they import into the United States. Previously, the regulations defining the site for importer reporting were found in both the definition for site in 40 CFR 710.3 and in paragraph 40 CFR 710.48(b). EPA is eliminating unnecessary duplication in the CDR regulation by moving the additional information regarding the importer site from 40 CFR 710.48(b) into a revised definition for site at 40 CFR 711.3, as described in Unit III.C.2., and eliminating 40 CFR 710.48(b).

In addition, EPA has observed that submitters occasionally use a foreign address as the site address for the importer. EPA now is requiring that submitters report a U.S. site address, by modifying the definition for site to state specifically that the site must be a U.S. site. The U.S. address of an agent acting on behalf of the importer, and authorized to accept service of process for the importer, may be reported as the importer's site address if the operating unit that is directly responsible for importing the chemical substance and that controls the import transaction has no U.S. address. The Agency expects that all importers will have a U.S. site, as defined in the 40 CFR 711.3 definition for *site*, because, under Customs regulations at 19 CFR 141.18, a non-resident corporation is not permitted to enter merchandise for consumption unless it has a resident agent in the State where the port of entry is located, who is authorized to accept service of process against the corporation.

2. *Joint submissions.* For purposes of CDR, submitters are allowed to report the CDR information jointly with the foreign supplier of a reportable chemical substance whose chemical identity is unknown to the importer. Previously, joint submissions could not be made electronically. EPA is now requiring that submitters use CDX and e-CDRweb for preparation and submission of joint submissions. See 40 CFR 711.15(b)(3)(i)(C). Therefore, the authorized officials of the jointly submitting companies will need to register with CDX in order to submit a joint report to EPA.

Importers may not know the specific chemical identity of a chemical substance because the foreign supplier chooses to keep it confidential. In such a situation, the importer must use e-CDRweb to ask the foreign supplier to submit the chemical identity information directly to EPA through a joint report. To submit a joint report, the importer completes the majority of the required information, and supplies a trade name or other designation to identify the chemical substance, and provides contact information for the foreign supplier. The importer then uses e-CDRweb to contact the foreign supplier and request that the foreign supplier report the specific chemical identity information directly to EPA. The importer must submit a copy of such request to EPA, along with the rest of its CDR submission for the chemical substance. As a general matter, EPA expects that importers will supply the information described at 40 CFR 711.15(b)(3)(i)(A), rather than an "NKRA" designation, when importers do not know the confidential chemical identity of a chemical substance they import. EPA believes that an NKRA designation would generally only be appropriate in the unlikely event that an importer did not know, and could not reasonably ascertain, the information needed to link its submission with a secondary report from the supplier.

In an acceptable joint submission, the secondary submitter supplies the chemical identity, as well as its technical contact and company information, and provides the primary submitter's site information. EPA will not accept joint submissions that are not submitted electronically using e-CDRweb and CDX. All information will be saved by the reporting tool and both submissions will be matched based upon company and chemical substance information. Once the forms are linked, EPA will process the joint submission as one report for the reported chemical substance. See the Instruction document (Ref. 7), for detailed instructions on submitting a joint report.

IV. What clarifications have been made to reporting requirements?

1. *Clarification of the relationship between company name and site identity CBI claims.* Under the CDR, submitters are able to separately claim as CBI the company name and site identity associated with a chemical substance for which they are reporting under the CDR. The submitter is required to provide an upfront substantiation for CBI claims for the site identity. EPA believes there is some confusion as to what is considered confidential when such claims are made, and is taking this opportunity to provide clarification.

The CBI claim protects the link between the company and/or site identity and the particular chemical substance. If the company or site identity associated with a particular chemical substance is not claimed as CBI, EPA may make that information available to the public without further notice to the submitter. EPA will not impute the existence of a CBI claim for company identity or for site identity from a CBI claim associated with a different chemical substance.

Company and site identity CBI claims are separate claims, and in some cases one type of claim may be justified while the other is not. Therefore, a submitter is permitted to assert its CBI claim for the company identity, the site identity, or both the company and site identity. Such claims must be made for each chemical substance for which such claims are being made. Because the circumstances for each chemical substance can vary, the CDR rule does not allow for blanket claims covering all chemical substances in a site's CDR report.

Likewise, the submitter must provide separately the required upfront substantiation for the site identity CBI claims associated with each chemical substance. For instance, if the submitter is reporting for five chemical substances and wishes to claim its site information confidential for three of the five

chemical substances, it must assert the claim and provide separate upfront substantiation three times, once for each of the three chemical substances.

EPA has also observed that submitters sometimes claim only their company identity, and not their site identity, as confidential. If the site identity for a particular chemical substance is not claimed as CBI, or is claimed but not substantiated pursuant to 40 CFR 711.30(c), EPA may make that information available to the public without further notice to the submitter. EPA will not impute the existence of a CBI claim for site identity from a CBI claim for company identity, even if the company name appears within the site identity information. To help ensure that submitters consider this issue, the e-CDRweb reporting tool provides a warning whenever the company identity is claimed as CBI for a particular chemical substance and the site identity is not also claimed as CBI for that chemical substance.

2. *Explanation of byproduct reporting.* During the 2006 submission period, EPA received questions about the requirements for reporting byproducts. The questions included whether byproduct manufacturers (including importers) were required to report the byproducts under the IUR rule. Based on those and subsequent inquiries, and from the public comments from the proposed rule, it is apparent that scope of the CDR obligation to report byproducts is not well understood by industry. The scope of byproduct reporting has become a particularly pertinent issue because (by the terms of the 2003 IUR Amendments) inorganic chemical substances are now no longer exempt from reporting under CDR, including (beginning with the 2012 CDR) the information collection requirements for processing and use information. Inorganic chemical substances are often recycled, which may trigger the need to report a byproduct substance that is recycled. In an effort to further clarify reporting obligations, EPA is providing additional information on byproduct reporting, including circumstances under which reporting is not required, in two guidance documents included in the docket for this final rule (Refs. 7 and 16) and on EPA's Web site at *http://www.epa.gov/iur*. For purposes of CDR, a byproduct is a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture (40 CFR 704.3). Thus, for example, when a chemical substance or mixture is used for the purpose of manufacturing an article, and that manufacture results in the production of a different chemical substance, that different chemical substance is a byproduct for purposes of the CDR. Chemical substances that are byproducts of the manufacture, processing, use, or disposal of another chemical substance or mixture, like any other manufactured chemical substances, are subject to CDR reporting if they are listed on the TSCA Inventory, are not otherwise excluded from reporting, and their manufacturer is not specifically exempted from CDR reporting requirements.

The 40 CFR 704.3 definition of *manufacture for commercial purposes* states that "[m]anufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture. Such byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose." Thus, byproducts of the manufacture, processing, use, or disposal of another chemical substance or mixture for a commercial purpose are themselves both "manufactured" and "manufactured for commercial purposes." Also, considering the overall context of this definition, EPA interprets "chemical product" broadly to include any product of the manufacturing, processing, use, or disposal of another chemical substance or mixture, other than a byproduct.

Byproducts that are manufactured (including imported) in volumes of 25,000 lb or more at a single site are potentially subject to CDR requirements. However, 40 CFR 711.10(c) excludes from reporting those chemical substances meeting the requirements of 40 CFR 720.30(g) or (h). Manufacturers (including importers) of byproducts are not required to report the manufacture (including import) of a byproduct if the byproduct is not used for commercial purposes. See 40 CFR 720.30(h)(2). Thus, even where a byproduct is manufactured (including imported) for a commercial purpose, if the byproduct is not subsequently put to use for another commercial purpose, the byproduct is excluded from CDR reporting. Furthermore, if the byproduct's "only commercial purpose is for use by public or private organizations that: (1) Burn it as a fuel, (2) dispose of it as a waste, including in a landfill or for enriching soil, or (3) extract component chemical substances from it for commercial purposes," 40 CFR 720.30(g), that byproduct is also excluded from CDR reporting. This exclusion applies only to the byproduct; it does not apply to the component chemical substances extracted from the byproduct. The Instructions document (Ref. 7) includes a decision tree to assist a byproduct manufacturer (including importer) in its determination of the need to report its byproduct chemicals.

Some manufacturers (including importers) of byproducts have expressed a belief that a chemical substance that is regulated by another EPA program, such as under the Resource Conservation and Recovery Act (RCRA), or that is exempt from certain requirements by the other program based on certain treatments or disposals, should not be required to be reported for CDR purposes. However, under this final rule, when such chemical substances have a commercial purpose not exempted by 40 CFR 720.30(g), the manufacturer (including importer) of such a chemical substance may have CDR reporting obligations, and is not relieved of those obligations based on exemptions under other laws.

Although the need to report for byproduct chemical substances is not a new requirement, EPA recognizes that there were many comments and concerns raised about byproduct chemical substances, as stated earlier in this unit, and that there may be byproduct manufacturers that remain unsure of their reporting obligations under the CDR. In particular, the Agency recognizes that this may be an issue for those byproduct manufacturers who recycle byproducts by sending them off-site to a recycler. The Agency is committed to helping byproduct manufacturers report according to the CDR requirements and views the 2012 reporting cycle as an opportunity for the Agency and byproduct manufacturers to work together. Among other things, the Agency will use this opportunity to determine whether additional guidance tailored to these manufacturers is needed. In addition, EPA intends to provide training specific to byproduct reporting and to make available Agency personnel to answer questions on an individual basis.

EPA also intends to continue to work with industry and the interested public. EPA encourages recycling. The Agency intends to examine the collected information related to byproducts, recognizing the importance of recycling,

to identify whether there are segments of byproduct manufacturing for which EPA can determine that there is no need for the CDR information for the 2016 or other future reporting cycles.

V. Public Comments

EPA carefully considered the comments it received on the proposed IUR modifications. Major comments are discussed in this unit. Additional comment summaries and more detailed responses, including responses to most of the additional issues that EPA requested comment on, are contained in the Responses to Comments document (Ref. 12).

As part of this action, EPA is changing the identification of the regulation from IUR to CDR. Elsewhere in this document, EPA has retained the use of the term "IUR" to reflect historical terminology, and has used the term "CDR" to describe the revised reporting requirements and future submission periods. However, in order to enhance understanding of the responses to the public comments, EPA is retaining the use of the IUR acronym for this unit, even where referring to revised reporting requirements and future submission periods. The reader should recognize that where IUR is used to refer to the 40 CFR part 711 regulations or to future IUR submission periods, IUR and CDR are synonymous.

A. General Comments

1. *Justification for proposed modifications.* Several commenters supported many of EPA's proposed reporting changes, stating that the changes will facilitate EPA's ability to track chemical substances used and made in the United States, which would strengthen EPA's ability to identify chemical substances for further assessment. They also noted that the IUR data not only supports activities under EPA authorities, but is also used by other Federal agencies, the States, and other interested stakeholders to identify potential chemical substances of concern. Other commenters expressed the view that EPA has not provided adequate justification supporting the Agency's need for the IUR data and has not sufficiently tailored the requested information to meet EPA's goals. One commenter did not agree that the modifications will increase the "usability of collected information" or "focus reporting" on what is "most needed" by EPA. Another commenter mentioned that the Agency does not explain how the existing IUR fails to meet these goals or why an IUR expansion is needed to carry out its Congressionally mandated TSCA duties. Additionally, commenters suggested that EPA should clearly indicate how the IUR data will be utilized in programs that systematically review hazard and exposure of existing chemicals.

EPA has an obligation under TSCA to protect human health and the environment from unreasonable risks associated with chemical substances under its jurisdiction. EPA is amending the IUR rule to improve and enhance data reporting requirements under IUR reporting beyond that required during the 2006 submission period. There were problems associated with many 2006 IUR data submissions that severely limited EPA's ability to screen chemical substances for exposure and risks and to make data available to the public. These problems included the fact that many submissions were incomplete or improperly completed, contained invalid chemical identities, and/or inappropriately or incorrectly claimed certain data elements as CBI. EPA anticipates that this final rule will

a. Ensure the required information is properly reported and that the information in the Agency's database reflects the information provided in the IUR reports.

b. Increase the usability of the collected information.

c. Increase the availability of information for the public.

d. Focus reporting on information that is most needed by the Agency.

Additionally, EPA believes that the modifications in this final rule will supply manufacturing, and processing and use information the Agency did not previously possess and should be accurate and reliable enough to develop screening level assessments.

Data collected under the IUR will be used in a wide variety of programs fundamental to fulfilling the Agency's TSCA statutory mandate. EPA believes that the IUR data is the most basic data set that will give EPA and the public an understanding of the volume of chemical substances produced or imported into the United States, how the chemical substances are or may be used, and the types of exposures (occupational, consumer, environmental, etc.) potentially associated with the chemical substances. Many chemical substances are exempted from reporting under the IUR rule, which further tailors IUR requirements to EPA's information needs. Data about production volume, exposures, and/or environmental releases are required to make some of the findings necessary to require testing under TCSA section 4, and helps EPA to prioritize chemical substances for further data gathering or risk management action. For example, data supplied by the IUR have supported a series of test rules in the HPV Challenge Program, which were implemented to generate health and environmental effects data on HPV chemical substances for risk assessment purposes. The IUR supported these test rules by providing production volume and exposure information needed to make the findings for these test rules. Without the IUR information, EPA might not have been able to make these findings. The Agency anticipates that the data collected under the 2012 IUR will better support the development of test rules.

The Agency's Existing Chemicals Program will use the IUR data to assess whether the Agency needs additional data about the hazards or exposures to a particular chemical substance under TSCA sections 4 or 8, and may use IUR data to inform risk management actions such as those identified in TSCA sections 5 and 6. EPA's extensive use of the 2006 IUR data in the Agency's Existing Chemicals Program is consistent with how EPA envisioned the data would be used when the 2003 IUR Amendments were promulgated. EPA used the 2006 IUR data together with other available information in developing Action Plans on chemical substances beginning in 2009, and noted the limitations inherent in those data. Any future program is expected to be similar in analytical approach regarding the use of screening-level hazard and screening-level exposure data to develop risk prioritizations. EPA's future Existing Chemicals Program will build on the experience of this past program, and the modified IUR data collected during the 2012 and future submission periods will enable the Agency to further enhance its program. More detailed discussions are in the Responses to Comments document (Ref. 12).

2. *Transitioning to 2012.* Commenters stated the new requirements are overly burdensome and unrealistic considering the time constraints. Commenters supported delaying the submission period in a variety of ways, including:

a. Extending by several months and delaying the implementation of changes until the next submission period,

b. Delaying the submission period until 9 to 12 months following the promulgation of the final rule, or

c. Moving the submission period to 2012 and changing the principal reporting year to 2011.

In light of these comments, to provide sufficient time for companies to comply with the amended reporting requirements, and to finalize the

proposed modifications, EPA promulgated a final rule (Ref. 6) to suspend the 2011 submission period. In this final rule, EPA supersedes the suspension of the submission period by establishing a new sequence of submission period, beginning with one from February 1, 2012, through June 30, 2012. EPA believes that the timing of the 2012 submission period provides companies sufficient time to collect and submit the required data, and that steps taken by the Agency have provided and will provide the opportunity for companies to gain an understanding of the submission process and to prepare their internal electronic systems as needed. For example, EPA was asked by several companies and trade organizations to provide an overview of the reporting tool. Acknowledging that companies were concerned about the time needed to develop their internal databases to collect the required information, on November 30, 2010, the Agency held an informational workshop and webinar to help companies develop a better understanding of the CDX registration process and the e-CDRweb electronic reporting tool. A recording of the workshop and a summary of the questions and answers is available on the IUR Web site (*http://www.epa.gov/iur*). EPA used stakeholders' comments from the workshop to help ensure the tool would address the needs of the submitters. In addition, the Agency plans to provide an opportunity, prior to finalization of the e-CDRweb, for stakeholders to test a pre-release version of the tool. EPA plans to conduct a training webinar shortly after the publication of this final rule to provide detailed instructions on the reporting requirements and on using e-CDRweb to complete and submit Form U. Finally, to the extent that the timing of the next submission period actually presents a substantial obstacle to the submission of any particular data element, notwithstanding EPA's efforts to familiarize submitters with the draft and final reporting tool, and EPA's post-promulgation efforts to familiarize submitters with the reporting requirements, the IUR reporting standard of "known to or reasonably ascertainable" addresses such circumstances without the need for a delay in implementation (see Unit V.E.1.).

One commenter suggested that EPA continue under the old IUR rule for this submission period. The Agency does not agree that it should continue under the IUR rule in effect for the 2006 submission period; however, the Agency recognizes that additional time may be necessary for many submitters to become familiar with the updated IUR reporting requirements and develop processes for collecting the information. Therefore, the Agency will be phasing in certain requirements so that the scope of exposure-related information to be collected will be increased for the 2012 IUR data collection and then further increased for the 2016 data collection and subsequent reporting years. As mentioned by one commenter, the "IUR rule is one of the very few means by which the federal government can obtain and provide public access to robust information on the identity, production, processing and use of" chemical substances (Ref. 17). In order to fulfill the EPA Administrator's goal of enhancing EPA's TSCA chemical management program, EPA needs to begin collecting some of the new and updated information in the 2012 submission period. As described on EPA's Web site (*http://www.epa.gov/opptintr/existingchemicals/pubs/enhanchems.html*), EPA's comprehensive approach to enhancing the Agency's current chemicals management program includes obtaining information needed to understand chemical substance risks and increasing transparency and public access to information about chemical substances. The changes to the IUR are specifically identified as a key component for these aspects of the enhanced program, including required electronic reporting and the expanded manufacturing, processing and use information. For example, the expansion of reporting processing and use information for all chemical substances addresses the identified lack or insufficiency of such information for most chemical substances—including HPV chemical substances. EPA's efforts to understand and prioritize chemical substances based on risk, using the 2006 IUR data, were instrumental in identifying the needed changes to the IUR requirements. These included:

- EPA's Risk-Based Prioritization (RBP) process was developed to take the hazard data assembled for HPV chemical substances under EPA's HPV Challenge Program to conduct screening-level hazard assessments and use the 2006 IUR data to develop screening-level exposure assessments, with the goal of using the two types of assessments to develop screening-level risk prioritizations for the HPV chemical substances with fairly complete Screening Information Data Sets (SIDS). EPA quickly discovered that while the hazard data allowed EPA to make a screening-level conclusion about hazard, the 2006 IUR data rarely provided sufficient information for EPA to reach a screening-level conclusion about exposure.
- EPA discovered with the 2006 IUR that a larger than expected portion of HPV chemical substance manufacturers produced below the 300,000 lb threshold at individual sites, resulting in many submitters not being required to provide processing and use information for those volumes. In some cases, all of the reporters fell below the threshold.
- For MPV chemical substances, with national production volumes between 25,000 and one million lbs, even fewer individual sites reported production volumes over the 300,000 lb threshold. Although EPA desired to include these chemical substances in its risk-based prioritization process, the screening-level exposure information was not available.
- For those chemical substances for which EPA had some processing and use data, the Agency had difficulty evaluating exposure for commercial workers and consumers because the 2006 IUR data did not differentiate between these populations. The separation of these populations for future IUR collections, and including other information such as that related to children's use of the chemical substances, will help EPA better identify potential risks to more targeted populations.

These examples illustrate several obstacles EPA encountered in understanding chemical substance risks, which stemmed from the scope of the 2006 IUR data collection. They also illustrate how the revised IUR data collection will increase the Agency's ability to understand exposure concerns so that EPA will be better able to identify steps needed to manage risks associated with chemical substances. Not only will the revised IUR data collection provide information that would have been helpful for past programs, it is directly applicable to the Agency's current and future programs. EPA will be able to use the 2012 IUR data to identify additional chemical substances for its Chemical Action Plan program, will also be able to identify if any of the current Action Plans may need to be revised, and will be able to develop other aspects of the enhanced existing chemical substance management program that are associated with understanding chemical substance risk.

In addition, requiring the use of electronic reporting will ensure that data are available in a timely manner and will reduce data entry errors,

thereby increasing the usability and reliability of the data for EPA and other Federal agencies. It will also help to fulfill the EPA Administrator's commitment to increase public access to information on chemical substances.

3. *EPA's use of IUR data.* The Agency received comments related to how IUR data can best be used to assist in assessing, prioritizing, and taking action on chemical substances that pose unreasonable risks. Commenters stated that the current IUR was sufficient for EPA to use as a screening tool for the prioritization of chemical substances in commerce, and that EPA should use the Agency's wide variety of regulatory tools and authorities to collect more detailed information. Commenters also expressed interest in providing input on using the IUR and the Agency's prioritization process.

EPA disagrees that the current IUR is sufficient for its purposes. Between August 2007 and mid-2009, EPA developed screening-level hazard, exposure, and risk characterizations for some chemical substances produced or imported in quantities of 25,000 lbs or greater a year. Based on those characterizations, EPA developed either an RBP or a hazard-based prioritization (HBP) for individual chemical substances or a group of chemical substances that were similar in some way, e.g., structure, properties, toxicity. Those prioritizations did not constitute definitive determinations regarding hazard, risk, or the sufficiency of available information for any regulatory purpose, but were rather initial evaluations of data and understanding currently available to EPA. EPA's experience using the IUR information to develop the prioritizations was that the 2006 IUR data were not sufficient to provide the needed exposure-related information. When EPA was developing RBPs for its HPV chemical substances, it needed both hazard and exposure screening-level information. Lacking sufficient exposure information, EPA found it necessary in many cases to make assumptions about exposure and the resulting prioritization decision was primarily hazard-based, as opposed to risk-based, as evidenced by statements in many of the RBP as well as HBP documents that EPA developed (available on-line at *http://iaspub.epa.gov/oppthpv/existchem_hpv_prioritizations.INDEX_HTML*) that further information on exposure was needed to confirm the prioritization. Thus the exposure information provided in the 2006 IUR reporting did not provide EPA with sufficient information to prioritize chemical substances for which it generally possessed a base set of hazard data. Therefore, for some of the RBPs the next steps indicated that additional exposure information would be necessary to validate the prioritizations before determining whether any further action was needed. In developing these characterizations, EPA identified areas where the IUR data collection should be improved and enhanced. These improvements, which are reflected in the modifications to the reporting requirements in the current rule, will allow EPA to better prioritize chemical substances for further assessment as well as make appropriate risk management decisions for follow-up action on chemical substances that may pose potential risks to human health or the environment.

EPA is considering using other regulatory tools and authorities to collect more in-depth information, but believes the IUR is the correct mechanism for the data collection finalized in this document. EPA also is considering ways to obtain public input on its use of the IUR data and its chemical substance prioritization process, as suggested by the commenters.

4. *Canada's prioritization approach.* Some commenters recommended that EPA adopt Canada's prioritization approach. EPA assumes that the commenters were referring to the Domestic Substances List (DSL) Categorization that Canada completed in 2006. The DSL Categorization was a statutorily mandated risk-based prioritization which required review of both hazard and exposure information for 23,000 chemical substances in a very short period of time. Health Canada was required to identify chemical substances presenting human health hazards as well as the greatest potential for exposure to Canadians. Even though categorization was a legally mandated process with a deadline for consideration of all chemical substances on the DSL, Health Canada felt that production volume alone was not a sufficient surrogate for exposure. In order to move beyond production volume, Health Canada sought additional information, including some of the types of data that EPA is requiring for the 2012 reporting period (Ref. 18). Based on its review of hazard and IUR data collected on HPV and MPV chemical substances, EPA also believes that using large production volume as the sole surrogate for exposure is not sufficient to identify chemical substances of highest concern. Some of the risk-based prioritizations of HPV chemical substances resulted in low priority decisions for the HPV chemical substances that were low hazard, used in closed systems and consumed as intermediates. On the other hand, some of the MPV chemical substances were identified as potentially high or medium priority, because they had high or medium hazard and would present high or medium risk concerns if they had widespread exposure or dispersive uses. The only way for the Agency to move from prioritizations based primarily on hazard to truly risk-based prioritization is for it to receive regularly updated information on exposure and use for chemical substances being made and used in the United States. The chemical substance manufacturing industry has indicated in several ways, including in comments on the proposed rule, that it supports risk-based as opposed to hazard-based prioritization. A commenter also noted that industry strongly supports risk-based decisions and for that reason needs to provide robust production, processing, and use data.

B. Comments on Electronic Reporting

EPA received various comments on the proposed requirement to use the reporting tool, e-CDRweb, to submit all IUR submissions. In general, comments were submitted on the reporting tool phasing-in electronic reporting registering with CDX, and electronic signatures. See section B. in the Responses to Comments document (Ref. 12) for further discussion on electronic reporting.

1. *Comments on the reporting tool and phasing-in electronic reporting.* In general, commenters supported electronic reporting. Some commenters suggested that the Agency develop a phased-in process for electronic reporting, in order to provide more time for companies to become familiar with the new format and to develop their own data systems. Some commenters wanted to be able to upload data via an XML file into the web-based tool. The requirement to use electronic submissions over the Internet was a concern for some commenters. EPA, based on its experience collecting and managing the 2006 IUR reports, has concluded that mandatory electronic reporting is a critical next step for collection of the 2012 data. Optional electronic reporting for the 2006 IUR provided the Agency with experience relating to both industry and Agency needs, and the Agency has applied this experience in the course of developing the 2012 electronic reporting tool (e-CDRweb). For example, the use of a web-based tool for the 2012 IUR will eliminate many of the software compatibility and firewall setting issues that were encountered during the 2006

submission period. In addition, e-CDRweb utilizes other Agency systems, such as SRS, enabling the submitter to readily select the chemical identity in the correct format, thereby eliminating problems relating to the previous need to type or write in the chemical name. With these enhancements, EPA believes the use of e-CDRweb will substantially reduce error rates and burden; consequently, EPA does not believe it is necessary to have another optional electronic reporting period.

In addition, the Agency's CDX service is increasingly being used by a variety of programs, as the Agency moves toward comprehensive electronic reporting. EPA is continually looking for ways to improve CDX, to better address submitter and Agency needs. For example, EPA has developed an eTSCA registration for CDX which, when fully implemented, will eliminate the need to register separately to use the e-CDRweb and ePMN systems. ePMN registrations using the current eTSCA will be acceptable e-CDRweb registrations.

The Agency believes that commenters' concerns regarding mandatory use of the new electronic reporting tool reflect a lack of understanding of the tool's capabilities and enhancements. The reporting tool provides the ability to submit data in an XML format and includes enhancements to CDX that are designed to allow for multi-user capabilities and otherwise facilitate electronic reporting. EPA has provided training opportunities and guidance materials to facilitate electronic reporting, as well as testing opportunities, to alleviate particular commenters' concerns. For example, the Agency held an informational workshop and webinar on November 30, 2010. The workshop was designed to help companies develop a better understanding of the CDX registration process and the e-CDRweb electronic reporting tool. The workshop, which was recorded live as a webinar, was posted to the IUR Web site at *http://www.epa.gov/iur* along with accompanying slides, a question and answer document, and a draft XML schema. In addition, EPA plans to invite several companies to test e-CDRweb to identify areas needing improvements. The comments and concerns of industry representatives will be taken into consideration as EPA further develops the reporting tool. EPA also intends to hold further training and outreach sessions at which industry representatives may express remaining questions and concerns regarding the operation of the e-CDRweb tool, which EPA will address. Additionally, EPA has published a revised Instructions document (Ref. 7) explaining the reporting requirements and how to complete Form U using the reporting tool.

Electronic reporting was first offered as an option for the 2006 IUR. As explained in the preamble to the proposed rule and the Responses to Comments document, there were many problems, errors, and delays associated with paper submissions of the 2006 IUR data, which make the continued use of paper reporting highly inefficient and therefore undesirable. In light of the substantial disadvantages associated with allowing paper submissions, and the reporting tool improvements and training opportunities outlined in this unit (and explained in greater detail in the proposed rule and the Responses to Comments document), EPA does not believe it is reasonable to phase in electronic reporting over another reporting period and is confident that submitters will be able to successfully use the e-CDRweb tool to electronically report under the CDR rule in 2012.

2. *Comments on registering with CDX and providing electronic signatures.* Commenters thought the modified ESA Form, in particular the need for multiple notarized signatures, was burdensome and unnecessary. Commenters stated that there should be more than one individual with an electronic signature and that multiple persons may need to be able to input and submit IUR data for a company's U.S. sites. The commenters noted that the actual preparer/drafter would rarely be the signatory. Another respondent noted that companies should be allowed, but not required, to have the same authorized official for the PMN and IUR submission.

EPA understands and is cognizant of the concerns presented by industry regarding the revised ESA Form. An ESA Form is required for CDX registration and is necessary to submit electronic data to EPA. Regarding the prior need for multiple notarized signatures, EPA has determined that requiring a notarized signature as part of the ESA Form is no longer necessary. EPA is also exploring an approach to eliminate the need for an individual to register multiple times with CDX to submit to various TSCA programs. As with PMN electronic submissions, multiple people from the same site or company are able to register with CDX and participate in completing the site's Form U. Although one individual will be designated as an authorized official who will sign and submit the completed Form U, the e-CDRweb tool allows for more than one individual to edit a submission. Ultimately, EPA's goal is to provide one ESA Form across all TSCA programs and is exploring the reuse of electronic signatures issued under the New Chemicals Program, as well as other EPA programs.

C. Comments on Reporting Thresholds

1. *Method for determining whether you must report.* EPA proposed to modify the method used to determine whether a person is subject to IUR reporting. The new method requires persons to report under the IUR if they manufactured (including imported) 25,000 lb or more of a chemical substance at any single site in any calendar year since the last principal reporting year. This method becomes effective after the 2012 submission period. (**Note:** There is also a lowered production volume threshold for certain chemical substances, effective after the 2012 submission period. See 40 CFR 711.8(b).) Several commenters believed the change is appropriate and should be implemented for the submission period following the upcoming submission period (i.e., in the submission period following the 2011 submission period described in the proposed rule). They noted that the new requirement is essential to effectively capture the substantial year-to-year fluctuation in production/import volumes that was missed in past IUR reporting cycles, thereby skewing the picture of how many and which chemical substances are actually in commerce at a given time and what levels of production or import. One commenter went further to say that the modification would eliminate gaps and uncertainties in the information collected under the current IUR that result from infrequent collections and reporting of data. Another said that this will keep manufacturers from disguising their actual output by producing certain specialty chemical substances only in years that are not currently subject to IUR reporting. Two commenters supported the change but opposed the proposal to delay implementation until after the 2011 submission period described in the proposed rule, because it would further delay the ability to obtain accurate annual production information.

In contrast, others had mixed opinions or did not think the change was needed. Some commenters felt that unless the value of collecting and analyzing historical data could be clearly demonstrated such that the resource for the Agency and regulatory community can be justified, EPA should retain the mechanism whereby the need to report is based on consideration of a single reporting year. Some commenters stated that EPA had not shown special

utility for the information generated. Another commenter believes that there is no significant incremental benefit to require reporting from companies that produce or import less than 25,000 lb of a reportable chemical substance for 4 out of 5 years. The Agency realizes that the new multi-year consideration of production volume will increase reporting burden on industry, but believes that there is sufficient evidence that wide fluctuations in production volumes from year to year indicate the past IUR reporting was not accurately characterizing the chemical production. As EPA noted in the proposed rule, production volumes of chemical substances vacillating above and below reporting thresholds in different IUR reporting periods resulted in a change of approximately 30% in the composition of the chemical substances being reported from one IUR reporting period to the next. For example, EPA prepared a prioritization document for the butenedioic acid dialkyl esters cluster, which consists of 10 butenedioic acid dialkyl esters, seven of which were MPVs and three HPVs in 2006 (Ref. 19). Three of the chemical substances have had fluctuating production volumes above and below one million lb. In 1990 and 1994 when the HPV Challenge Program was being developed, the chemical substances identified by CASRNs 68921–51–7, 141–05–9, and 624–48–6 had production volumes below one million lb and so were not included in the HPV Challenge Program for completion of SIDS datasets. In 1998 and 2006, CASRN 68921–51–7's production volumes have been above one million lb, making it an HPV in those years. In 2002, CASRNs 141–05–9 and 624–48–6 had production volumes above one million lb. In part because of their fluctuating production volumes, neither SIDS datasets nor consistent exposure and use information were available for these chemical substances and so they were included in a cluster for an HBP as opposed to an RBP. One commenter also submitted an analysis of the degree of fluctuation of chemical substances and production volumes in the 2002 and 2006 IUR reporting years. This analysis found that about 32% of the organic chemical substances reported in 2002, including 400 HPVs, were not reported for 2006 and that about 26% of the chemical substances reported in 2006, including more than 200 organic HPVs, were not reported in 2002.

In addition, in comments submitted to the Agency in response to other programs, industry representatives expressed concern that short reporting determination periods would drastically misrepresent the chemical substances that currently are in commerce. They stated they manufactured or imported some chemical substances only occasionally, and that these chemical substances would not be captured if the reporting covered too short a period. The proposed rule provides a more detailed discussion of these comments (Ref. 1).

EPA believes that most sites will be able to gather production volume information without a substantial effort. In many instances, production volumes for recent past years are tracked under standard business practices. For example, EPA believes it is standard business practice for a company to furnish records of recent operations in the case of a proposed sale or merger, and that companies therefore typically retain such records so as to be prepared for such eventualities. EPA also notes that in the case that prior years' production volume information is not known to or reasonably ascertainable by the submitter (EPA expects that such cases would be extremely rare), those data would not be subject to reporting under the IUR and therefore would not trigger an obligation to report. Furthermore, persons who have submitted a PMN to the Agency's New Chemicals Program are required to maintain records of production volume for the first 3 years of production or import and in certain circumstances, including but not limited to the names and addresses of any person to whom the chemical substance is distributed. They must be maintained for 5 years from the date of commencement of manufacture or import (See 40 CFR 720.78). EPA expects that many companies would also track production volumes for planning, marketing, and sales projection purposes. Several types of TSCA actions, such as TSCA section 5(a)(2) SNURs and TSCA section 5(e) orders also require that production volume records be kept for 5 years for certain chemical substances, and several commenters indicated that they archived these records.

2. *Elimination of the 300,000 lb threshold.* The Agency received a substantial number of comments on the proposed elimination of the 300,000 lb threshold for reporting processing and use information. Comments submitted on various topics are described in this unit.

a. *Increased numbers of covered chemical substances.* Commenters asserted that the inclusion of inorganic chemical substances, coupled with the threshold change for processing and use information, will result in a substantial increase in the amount of data being submitted to the Agency. Commenters felt that EPA staff will need significant time to compile, review, and analyze the data submitted. One commenter suggested the Agency use a phased-in approach to adequately collect and process the increased information.

In response to these comments and comments received during interagency review, EPA decided to phase in the eventual elimination of the 300,000 lb threshold as a separate reporting threshold. For the 2012 submission period, all submitters of non-excluded chemical substances are required to report processing and use information if they manufactured (including imported) 100,000 lb or more of a chemical substance in 2011. For subsequent submission periods, the reporting threshold for processing and use information will be the same as for other types of information: 25,000 lb (or 2,500 lb for chemicals subject to 40 CFR 711.8(b)). Thus, there will be no separate threshold for the reporting of production and use information after 2012—the applicable reporting threshold will be the same as for other types of information. EPA believes this is a reasonable approach because it provides new submitters with an opportunity to become familiar with the reporting requirements, and provides much needed processing and use information on additional chemical substances. Future full reporting of exposure-related information will provide EPA and others with needed additional information for those chemical substances with production volumes of 25,000 lb or more at a site. While it is true that the amount of data in the IUR reports is expected to increase substantially in the 2012 and subsequent submission periods, EPA is better prepared now than it was for the 2006 IUR to compile, review, and analyze the anticipated increase of data. With the new e-CDRweb electronic tool, large amounts of data will be able to be submitted with less difficulty on the part of the submitter, and will be more readily organized, analyzed, and made available to the public by the Agency. In addition, the use of SRS for identifying chemical substances and validation process built into the e-CDRweb tool will eliminate most or all of the problems EPA had with missing information (which necessitated phone calls and e-mails to submitters), and manual entry of data, which was time-consuming and resulted in many mistakes. Given the requirement for mandatory electronic submissions and the corresponding improvements to the

e-CDRweb tool, the Agency is confident that the increase in data submissions will be easily managed for the 2012 submission period and the next, and both EPA and the public will quickly have a useable set of exposure-related IUR data.

b. *Reporting burden.* Numerous commenters were concerned about the increased reporting burden, particularly for smaller companies, and the complexity of Form U, Part III. One commenter stated that EPA should assess the benefits of the additional reporting requirements to establish a cost justification of the proposal. Other commenters were concerned that the lowered threshold would increase the number of imported mixtures and that it would be difficult to calculate and aggregate across products for lower volume chemical substances.

EPA analyzed the potential impacts of this requirement to all submitters, including potential burden to small businesses, in the Economic Analysis (Ref. 14). EPA recognizes that reducing the reporting threshold for processing and use information increases the reporting burden; however, phasing in the lower threshold reduces the burden for this reporting cycle and the cost to industry will decrease in all future reporting cycles. EPA disagrees with comments suggesting that the requirement may have a disproportionate effect on smaller companies (commenters suggested that smaller companies are more likely to manufacture below the 300,000 lb threshold that is eventually being eliminated). The quantity of a chemical substance that is manufactured (including imported) at a site is not necessarily dependent on the number of employees, which is the criteria by which a company is considered to be small. For example, a highly automated facility could produce large volumes of a chemical substance with a relatively small number of employees. Additionally, as noted in the Economic Analysis (Ref. 14), the Agency determined that because the small businesses affected by this final rule actually have average sales of more than $11 million, and because any potentially affected companies with sales of $0.81 million or less (the level at which the cost-to-sales ratio of the final rule would exceed 1%) would generally be exempt from reporting obligations under the IUR, small entities will not be significantly affected by this final rule.

EPA recognizes that, with the reduction and eventual elimination of the 300,000 lb threshold, importers may face an increase in burden to identify more component chemical substances contained within more imported mixtures. However, EPA believes that due to the deferral of the threshold reduction until the 2012 submission period (which involves reporting on the processing and use of imports occurring in 2011) and the deferral of the threshold elimination until the 2016 submission period (which includes reporting on the processing and use of imports occurring in 2015), importers will have had sufficient time to conduct an inquiry as to the specific chemical substances they import in mixtures. Furthermore, the inquiry need only be as extensive as a reasonable person, similarly situated, might be expected to perform.

EPA has several reasons to expect that importers have a reasonable awareness of the component chemical substances contained within imported mixtures. Importers have long been responsible for certifying that their imported chemical substances, including those chemical substances present as part of mixtures, are in compliance with TSCA (See 19 CFR 12.119). Furthermore, importers have long been required to provide chemical-specific information as to the constituents of imported mixtures under the IUR (see the definition of *importer* at 40 CFR 704.3 and the note at 40 CFR 710.4(c)(2)) and under the PMN program (40 CFR 720.30(b)). Furthermore, importers are often required to report chemical-specific information regarding imported mixtures under other EPA-administered statutes, such as the Emergency Planning and Community Right-To-Know Act (EPCRA) and RCRA. While reporting under the IUR differs in many significant respects from reporting under the EPCRA and RCRA programs, in all cases the importer is required to know the identity of the chemical substances they import. EPA notes that one commenter described, in detail, its practice of accounting for component chemical substances in imported mixtures. The commenter stated that "[w]ith the advent of the [Registration, Evaluation, Authorisation and Restriction of Chemicals] REACH we recently implemented an application that is capable of tracking volumes of individual substances in mixtures and summing them up over a period of time. The system automatically looks at the current formulation of any product that is crossing a border and adds the volume of each component to the cumulative total for that substance" (Ref. 20). Finally, EPA notes that a chemical substance that is imported solely in small quantities for research and development, as an impurity, as part of an article, or in certain other forms, see 40 CFR 720.30(g) and (h), is not subject to the IUR reporting requirements. See 40 CFR 711.10.

c. *Justification for data.* Several commenters strongly supported EPA's proposed change, stating that the information is essential for the completion of prioritizations for IUR reportable chemical substances; is critical for evaluating the potential for release of and exposure to chemical substances in commerce; and that the information requested is basic, screening-level data that should be required for all reported chemical substances. Additional commenters generally supported the change, but wanted it to take effect after the 2011 reporting cycle. Other commenters had concerns about the value of the information that is reported in Part III of Form U. One commenter stated that EPA has not made public documentation of the past use of this information to address screening and prioritization of chemical substances. Another commenter believes that EPA should provide more specificity on its needs and explain why other, more tailored, options do not provide the necessary data. EPA's information needs have changed since the last major amendment of the IUR rule in 2003. Production volume changes from year to year, so chemical substances can easily fluctuate above and below a relatively high reporting threshold, such as the previous 300,000 lb threshold for reporting processing and use, making it difficult for EPA to collect regular exposure information on many chemical substances. Requiring the reporting of processing and use information on an expanded list of chemical substances will assist the Agency and others in screening potential exposures and risks resulting from industrial chemical substance operations and commercial and consumer uses of chemical substances. The information will also help to provide an accurate and readily available source of, as noted in Unit V.A.1., basic exposure-related information for a subset of chemical substances listed on the TSCA Inventory. Furthermore, collection of this data is consistent with the EPA Administrator's strong commitment to provide the public with more information on a greater number of chemical substances.

As EPA discusses in this unit and elsewhere, the 2006 IUR information did not provide sufficient useable exposure-related data for EPA's screening level assessments. If EPA delayed reducing the processing and use

reporting threshold until the 2016 submission period, EPA would have to wait several more years before more useful exposure-related information is received for chemical substances for which EPA has already determined are currently in need of such information. With the phased-in approach, EPA will be able to collect much needed processing and use information on additional chemical substances during the 2012 submission period. Requiring full reporting for all chemical substances in subsequent reporting cycles (*i.e.*, eliminating the separate, higher, threshold for production and use information) provides EPA with the exposure-related information needed to continue efforts begun with the 2012 data. For example, the data reported in 2006 did not provide an adequate amount of exposure-related information, especially for HPV chemical substances. When attempting to use the 2006 IUR data for its screening level exposure assessments, EPA found that numerous chemical substances previously identified as HPVs were reported in amounts classifying them as MPV chemical substances, below the 300,000 lb cut off, and thus processing and use information was not provided for chemical substances for which EPA had a relatively complete hazard data set from the HPV Challenge Program. For example, an RBP was prepared for the chlorobenzenes category, which consisted of four chlorobenzenes sponsored under the HPV Challenge Program (Ref. 21). Only one of the four chemical substances, 1,3-dichlorobenzene (CASRN 541–73–1), was considered high priority; however, because it was an MPV chemical substance in 2006, no exposure and use data was available from the IUR reporting, so the high priority determination was based on high human health hazard and assumptions made about exposure.

The 2006 IUR data did not provide sufficient information on MPV chemical substances for use by the Agency's Existing Chemicals Program. Screening chemical substance risks generally requires a combination of both hazard and exposure information. Because most MPV chemical substances were produced below the 300,000 lb reporting threshold, EPA did not have exposure information available from the 2006 IUR and therefore, developed hazard based prioritizations which were supported by a screening level hazard characterization and consideration of very limited exposure and use data. The lack of information on exposure and use was especially problematic in those instances where the screening level hazard characterization identified either a medium or high hazard. Basic hazard data is easier to find in existing databases; however, specific exposure data is needed to make a priority determination risk-based. EPA believes that the lowering of the reporting threshold will provide more exposure-related information on a greater number of MPV chemical substances. EPA disagrees with the comment that it has not made public documentation of the past use of processing and use information to address screening and prioritization of chemical substances. As discussed in Unit V.A.3., EPA used 2006 IUR data starting in 2007 in its development of RBPs and HBPs which it has made available on its Web site. More recently, the Existing Chemicals Program used the IUR database when developing the Chemical Action Plans. For some Action Plan chemical substances, the 2006 IUR data were not sufficiently complete to be useful. An example is the Action Plan for Dyes Derived from Benzidine and Its Congeners, where the chemical substances of concern are known or reasonably anticipated human carcinogens; however, those listed were produced in amounts below the 300,000 lb threshold and so little exposure data was reported. Based on IUR data from prior reporting periods, some of the other dyes had been reported in the 10,000 to 25,000 lb range, but there was no 2006 IUR data available to determine whether these chemical substances were still being used in amounts beyond the small amounts used as analytical reagents. The Action Plans are available on EPA's Web site at *http://www.epa.gov/opptintr/existingchemicals/pubs/ecactionpln.html*. By lowering the reporting threshold for processing and use information to 25,000 lb in 2016, EPA is increasing consistency for the IUR with reporting requirements of the TRI program. Under the TRI program, chemical substances that are not chemical substances of special concern listed at 40 CFR 372.28 (*e.g.*, mercury, lead) are required to be reported if they are manufactured or processed in volumes of 25,000 lb or more annually or otherwise used in volumes of 10,000 lb or more annually. Though the chemical substances on the TRI list of toxic chemicals may be different from those reported under the IUR, an analysis showed that over 80% of the sites that reported under the 2006 IUR also reported under TRI in 2006. Given that there is some overlap in the companies that report and the information collected on activities and uses of chemical substances under both programs, EPA believes that many companies are already accustomed to reporting on lower volume chemical substances.

d. *Lack of data for chemical substances.* Several commenters noted that the 2010 reporting year will be over by the time the rule is finalized, and companies would not have had the opportunity to establish systems for collecting the information for chemical substances in the 25,000 to 300,000 lb range. Other commenters asserted that EPA was seeking data that are limited or unavailable because manufacturers do not know how their downstream customers use their chemical substances. Another commenter asserted that the lowered threshold will not enhance the quality or integrity of the resulting IUR data due to uncertainties in making estimates. EPA recognizes that submitters may not always have detailed information about how the chemical substance(s) they manufacture (including import) are used. As a result, submitters will be required only to report this information to the extent that it is known or can be reasonably ascertained. Based on its experience with the New Chemicals Program, discussions with industry about voluntary risk management programs, and industry's various self-regulation initiatives, the Agency believes that most submitters have at least some basic information about downstream uses, such as the information that is required by the IUR rule. EPA does not anticipate that the quality of the data collected in 2012 will significantly decrease due to the timing of the amendment to the reporting threshold. As mentioned earlier, EPA published a final rule (Ref. 6) to suspend the 2011 submission period to provide sufficient time for companies to comply with the updated IUR reporting requirements. This final rule was published in advance of the 2012 submission period, which is February 1, 2012, to June 30, 2012. For these reasons, companies should have the opportunity to establish systems for collecting the information on their reportable chemical substances. Furthermore, many of the reporting elements are the same as in past IUR reporting periods, and EPA notes that this final rule affords sufficient flexibility to account for those circumstances in which information is truly unknown and not reasonably ascertainable. The Agency believes that the data will be of sufficient reliability for use by the Agency and others for

purposes such as screening-level risk assessments and prioritization.

3. *Eliminate 25,000 lb threshold for specific regulated chemical substances.* EPA proposed to eliminate the 25,000 lb reporting threshold for chemical substances subject to particular TSCA rules and/or orders and to require manufacturers (including importers) of such chemical substances to report under the IUR, regardless of the production volume. Comments submitted on various topics are described in this unit.

a. *Burden.* One commenter stated that companies not expecting this significant change will be unprepared to gather required information. Several commenters expressed the view that the requirement will increase the burden upon industry without any real benefit to the environment and will create a situation where manufacturers (including importers) are responsible for knowing all byproducts of their process, no matter how small. Others felt that enacting this requirement without a *de minimis* concentration threshold would add an unnecessary additional layer of complexity to IUR analysis and would result in each reporting entity responsible for a far greater number of Form U submittals.

The Agency believes it is likely that recordkeeping practices were already in place for a company to track the volumes of the chemical substances it is manufacturing (including importing). In response to commenters, EPA decided to take two steps to limit the burden increase associated with IUR reporting for the specific regulated chemical substances. As a result, EPA is reducing the reporting threshold for these chemical substances to 2,500 lb, instead of entirely eliminating the reporting threshold. In addition, EPA is phasing in this change to the IUR; it will not affect IUR submissions until the 2016 submission period (*i.e.*, it applies to the submission in 2016, of records of production occurring between 2012 and 2015). EPA believes this should help to reduce the reporting burden for submitters because it provides sufficient time for companies to put in place recordkeeping procedures to collect and report the required data for situations where the recordkeeping procedures do not already exist. The burden of reporting will also be greatly diminished by the use of the reporting tool. The Economic Analysis contains EPA's analysis of the burden associated with this reporting (Ref. 14).

EPA disagrees that the increased burden will not yield any real benefits. Chemical substances that are the subject of particular TSCA rules and/or orders are of demonstrated high interest to the Agency. Receipt of up-to-date exposure and use information on these chemical substances, produced at 2,500 lb or more, will help EPA as it develops risk management strategies for those chemical substances subject to proposed rules. Additionally, EPA will use the 2016 IUR data as it monitors chemical substance production and compliance with the rules. The new requirement will also contribute to the EPA Administrator's commitment to increase the availability of chemical substance information to the public.

b. *Imports and mixtures.* Commenters thought this requirement will be difficult to meet in practice, particularly for imported chemical substances or mixtures. One commenter felt the requirement would create a needle-in-a-haystack situation in which a company would need to examine all chemical substances and/or mixtures imported, regardless of the concentration of the chemical substance or volume of the import. Other commenters believed that importers would have great difficulty knowing that low-concentration ingredients are present in formulated mixtures, especially when they are not subject to inclusion on a label or Material Safety Data Sheets (MSDS). EPA recognizes that eliminating the 25,000 lb reporting threshold may, in some instances, make it more difficult for importers to determine the production information for component chemical substances in imported products. Consequently, the reporting threshold will be 2,500 lb, instead of zero, and will be phased in to begin with the 2016 IUR. The IUR also includes a number of exemptions that address the "needle-in-a-haystack" concern expressed by the commenter. IUR reporting is not required for a chemical substance that is imported solely in small quantities for research and development, as an impurity, as part of an article, or in certain other forms. See 40 CFR 711.10, 40 CFR 720.30(g) and (h). Furthermore, companies should be accustomed to reporting chemical-specific information to EPA because the Agency has always sought information on individual chemical substances in mixtures under the IUR and other TSCA regulations. For example, TSCA section 13 requires chemical importers to certify that the chemical substance or mixture it is importing is not being imported in violation of TSCA; an importer must, therefore, have knowledge of the regulatory status of the chemical substances it is importing. If an importer does not know, or can't reasonably ascertain that a particular chemical substance is present in a mixture, it is not required to report the chemical substance. If an MSDS makes no mention of the presence of an ingredient, and the importer does not otherwise know that the ingredient is present, EPA would generally agree that the importer does not know, and cannot reasonably ascertain that it is importing that ingredient. Therefore, no IUR report for that ingredient would be required. In addition, manufacturers (including importers) are not required to report impurities.

If an importer does not know and cannot reasonably ascertain that a particular chemical substance is present in an imported mixture, it is not required to report the chemical substance under the IUR. Importers of mixtures with constituents of proprietary or otherwise unknown chemical identity should ask the supplier for the chemical identity to help determine whether an IUR report must be completed. If an importer knows that it is importing a particular chemical substance above the relevant threshold, but does not know the chemical identity because the supplier is unwilling to share the chemical identity with the importer, it is sufficient for the importer to follow the procedures in 40 CFR 711.15(b)(3)(i)(A), requesting that the foreign supplier provide the chemical identity directly to EPA in a joint submission.

The IUR reporting related to mixtures and UVCB chemical substances (chemical substances that are of Unknown or Variable composition, Complex reaction products, or Biological materials) requires careful consideration by submitters. Whenever a submitter has manufactured or imported a combination of several chemical substances, the submitter must first determine whether for TSCA purposes it is a mixture or a single UVCB chemical substance. A mixture is any combination of chemical substances that meets the statutory definition of "mixture" at TSCA section 3(8). Mixtures are not reported to IUR—rather the mixture's component chemical substances, the chemical substances that make it up, are potentially subject to reporting, as described in this unit. A UVCB chemical substance is an indefinite combination of chemical substances, that does not meet the statutory definition of "mixture" at TSCA section 3(8), whose number and individual identities and/or composition are not precisely or completely known. A UVCB combination of chemical substances is subject to reporting under IUR and is

considered a single chemical substance. Generally, the determination of whether a combination of chemical substances is a mixture or a UVCB chemical substance is made by the time that chemical substance has been commercialized and, as such, would be clear early in the IUR process. The following discussion is presented with this generality in mind.

- If you imported a mixture, you will need to report the individual chemical components of the mixture to the extent that your total volume for the individual chemical substance triggers reporting (*i.e.*, generally to the extent that such volume reaches the 25,000 lb threshold).
- If you domestically manufactured a mixture, you will need to determine whether any chemical substances were formed from a chemical reaction that occurred as part of manufacturing the mixture. If a chemical reaction has occurred, a chemical substance formed from the chemical reaction may be subject to reporting, based on its production volume or the applicability of other exemptions. If a chemical reaction has not occurred, you have not manufactured any reportable chemical substances in the production of the mixture. In such a case, the production of the mixture has not triggered any IUR reporting requirement.
- Domestic manufacturers and importers should also consider whether the combination of chemicals they have domestically manufactured or imported (respectively) should be chemically identified for TSCA purposes as a single UVCB chemical substance instead of a mixture.

EPA has developed two inventory nomenclature guidance documents related to the mixture-UVCB determination titled:

i. "Toxic Substances Control Act Inventory Representation For Chemical Substances Of Unknown Or Variable Composition, Complex Reaction Products And Biological Materials: UVCB Substances" available on-line at *http://www.epa.gov/oppt/newchems/pubs/uvcb.txt*.

ii. "Toxic Substances Control Act Inventory Representation For Combinations Of Two Or More Substances: Complex Reaction Products" available on-line at *http://www.epa.gov/oppt/newchems/pubs/rxnprods.txt*.

c. *List of subject chemical substances.* Commenters suggested that EPA provide an up-to-date list of the chemical substances impacted at the beginning of the information collection year to ensure more accurate and complete reporting. EPA provides just such a list. It is titled "Chemical Substances that are the Subject of Certain TSCA Orders, Proposed or Final TSCA Rules, or Relief Granted under Civil Actions." It can be found in Appendix B of the Instructions document (Ref. 7). The pertinent chemicals are listed both by CASRNs (for non-confidential chemical substances) or by TSCA Accession Numbers (for confidential substances) that are the subject of a rule. The Instructions document, which was updated for the 2012 IUR reporting, is available in the docket for this final rule and on EPA's IUR Web site at *http://www.epa.gov/iur*. This list is intended to be a helpful information resource, but it is not legally determinative of the status of any particular chemical substance.

d. *Reporting for chemical substances subject to a proposed rule.* Some commenters supported EPA's suggestion to eliminate the 25,000 lb threshold for certain chemical substances that are the subject of a rule proposed under TSCA section 5(a)(2), 5(b)(4), or 6. Another commenter believed it was inappropriate to impose expanded reporting requirements on chemical substances subject to proposed rules which might not be finalized. The Agency generally agrees with the commenters who stated that if chemical substances that would typically be exempted from reporting are subject of a rule proposed under TSCA section 5(a)(2), 5(b)(4) or 6, the chemical substances should be reported despite the lower volumes produced. However, as discussed in Unit III.E.3., EPA has decided to reduce the reporting threshold for these chemical substances to 2,500 lb, instead of entirely eliminating the reporting threshold. In addition, EPA is phasing in this change to the IUR; it will not affect IUR submissions until the 2016 submission period.

The Agency disagrees with the commenter who argued that the change to the 25,000 lb reporting threshold (at 40 CFR 711.8(b), promulgated under TSCA section 8(a)) should not be triggered by the mere issuance of a proposed rule for a chemical. The latter commenter suggested that it would be inappropriate to collect more detailed information on such a chemical substance until the proposed rule had been fully vetted and analyzed, noting that finalization can often take a number of years. However, EPA believes that the issuance of one of the proposed rules described in this unit represents an appropriate circumstance to trigger enhanced information collection under the IUR. EPA issues a proposed rule under TSCA section 5, or 6 only after making proposed findings under TSCA section 6 that a chemical substance or some specified use of a chemical substance presents some level of concern. Precisely because potential concerns about the chemical substance would be under review and because there might be an opportunity for a fuller IUR dataset to help inform that analysis and the development of risk management actions, EPA believes it is appropriate for the reduction of the 25,000 lb reporting threshold to be triggered when a rule is proposed. Furthermore, those chemical substances that are the subject of a rule proposed under TSCA sections 5(a)(2), 5(b)(4), or 6 are of demonstrated high interest to the Agency. In an effort to better understand the extent of manufacture, use, and potential exposure to such chemical substances, EPA believes it is appropriate to reduce the 25,000 lb threshold and require reporting on these chemical substances during the 2016 reporting cycle if they are manufactured (including imported) in volumes of 2,500 lb or more.

e. *De minimis threshold volume.* EPA asked for comment on whether a *de minimis* production volume threshold should be set for these chemical substances. Several commenters supported the concept of a *de minimis* threshold, although one of the commenters indicated that it would be difficult to choose an appropriate level to decrease the reporting burden due to the difficulty associated with definitively identifying a production volume level below which there are not chemicals of interest. A few of these commenters supported setting a *de minimis* threshold of 2,500 lb, as this is 10% of the 25,000 lb reporting threshold and is similar to the *de minimis* under the EU's REACH regulations. One commenter thought a *de minimis* volume should be set on a chemical-by-chemical basis for chemicals for which EPA needs specific information. Some commenters opposed setting a *de minimis* threshold, either because they felt that there should be no reporting threshold or they felt that the threshold should remain at 25,000 lb. One commenter specifically opposed a *de minimis* threshold for any persistent, bioaccumulative and toxic (PBT) chemical substances.

EPA agrees with some commenters who noted that a 2,500 lb threshold would provide sufficient data for the Agency to monitor production and compliance with certain proposed or promulgated rules and/or relief granted pursuant to actions. Therefore, the Agency has decided to lower the reporting threshold to 2,500 lb, instead of zero, beginning with the 2016 IUR.

EPA believes that, at this time, the 2,500 lb threshold is a reasonable *de minimis* threshold that is low enough to help decrease the burden on submitters, yet will provide much needed data on chemical substances of known concern to the Agency. The reduced threshold is essential to ensuring that information is available on chemical substances that could pose health or environmental concerns at levels of production or import below the 25,000 lb threshold. In the future, EPA may find it necessary to collect information on these chemical substances at a reporting threshold below the 2,500 lb threshold introduced in this action.

EPA also believes that the regulated community should be sufficiently familiar with the 2,500 lb threshold as it is similar to the threshold that is used under the EU's REACH regulations to submit registration dossiers. Under REACH, a person who manufactures or imports a chemical substance in quantities of 1 tonne (metric tonne (mt) or if converted to pounds, about 2,205 lb) or more per year within the European Economic Area (EEA) must register the chemical substance (Ref. 22).

EPA believes that setting a *de minimis* threshold on a chemical-by-chemical basis or special thresholds for PBTs or carcinogens would require more time and resources than are presently available. The Agency recognizes that because of this *de minimis* threshold, there may be some chemical substances for which the Agency will have an interest in the IUR data (*e.g.*, for evaluating potential exposures), but for which IUR data are not reported because production volume is below 2,500 lb per site. However, EPA believes the 2,500 lb threshold will be sufficient for most circumstances. To address any future need for additional exposure-related information respecting chemical substances with per-site production volume below 2,500 lb, EPA may propose to amend the IUR further in the future, or may evaluate whether other action under TSCA would be appropriate.

D. Comments on Specific Data Elements

1. *Parent company and site identity.* Two comments were received in support of using the company name, address, and D&B number for reporting purposes, and clarifying the meaning of "company name." Respecting the clarification, one commenter suggested that the word "ultimate" be removed from the phrase "ultimate domestic parent company" and that instead companies should be allowed to name their domestic company, as is understood within their particular corporate organization. The commenter also noted that the intended clarification was not reflected in the actual regulatory text at proposed 40 CFR 711.15(b)(2)(i), which only referred to "parent company name."

During the 2006 submission period, submitters indicated that further clarification was needed to identify the correct company name for reporting purposes. Based on these previous comments, EPA has determined that the parent company's name, address, and D&B number is necessary to provide clarity as to which company name to use for reporting under the IUR. EPA agrees that further specification of "company name" is appropriate, and that the appropriate name for reporting should be clearly identified in the rule, but disagrees that "domestic parent company name" is sufficiently specific. As noted in the proposed rule (Ref. 1), EPA believes that using an approach that is consistent with the TRI reporting requirements would be most clear both for reporters and users of the data. EPA is therefore amending 40 CFR 711.15(b)(2)(i) to refer to "U.S. parent company name" and defining "U.S. parent company," at 40 CFR 711.3, to mean "the highest level company, located in the United States, that directly owns at least 50% of the voting stock of the manufacturer." The IUR definition of "U.S. parent company name" is consistent with the use of the term of "parent company" in section 5 of the 2009 Toxic Chemical Release Inventory Reporting Forms and Instructions (Ref. 15). EPA provides further clarification regarding the correct domestic (U.S.) parent company name in the Instructions document (Ref. 7).

2. *Technical contact.* EPA requested comment on requiring that the technical contact be a person knowledgeable about the reported chemical substance and be located at the manufacturing (including importing) site. Several commenters stated that companies should be able to use their discretion in identifying the most appropriate contact or contacts. They believe that the technical contact need not be physically located at the reporting site, and that information may be more reasonably generated by a corporate contact rather than a technical contact at the production site. Some commenters said that the technical contact should be an employee of the submitting company.

EPA agrees with commenters who stated that companies should use their discretion in selecting a technical contact or multiple technical contacts, as permitted by the new e-CDRweb tool. However, EPA believes that a technical contact must be someone who can answer detailed follow-up questions that EPA may have regarding the submission. EPA has found that technical contacts not at the reporting site generally are less knowledgeable about the submission or chemical substance and therefore may not be able to discuss follow-up questions. Also, it has been EPA's general experience that short-term contractors have not been suitable technical contacts, because they may no longer be under contract with the submitting company when EPA contacts them a year or more after the submission is made.

3. *Correct chemical name*—a. *Comments on imported chemical substances and joint submissions.* EPA received several comments regarding its proposal to require that importers ensure that their supplier completes the joint reporting of the CA Index Name currently used to list the chemical substance on the TSCA Inventory. The comments indicated that it would be difficult for an importer to require that another party complete a joint submission because foreign suppliers are not subject to the same Federal regulations as U.S. companies, compliance with U.S. regulations is not their top priority, and in some cases they are slow to comply.

EPA agrees with the commenters that its proposed joint submission procedures for importers, which required the importer to ensure that a foreign supplier prepared a secondary submission on its behalf, presented implementation difficulties. This is because, as the commenters suggested, the foreign supplier may not be subject to any direct legal obligation to provide the information to EPA. The Agency also notes that this issue extends to the regulations at 40 CFR 711.15(b)(3)(i)(B), as there may be circumstances in which the manufacture of a chemical substance is reportable under the IUR, yet the supplier of a reactant used in manufacturing that chemical substance would not have an independent legal obligation to report the chemical identity of the reactant under the IUR.

Therefore, the Agency has modified the requirements at 40 CFR 711.15(b)(3)(i) to reflect the primary submitter's underlying obligation to provide what it knows or can reasonably ascertain respecting the identity of a chemical substance subject to reporting. The joint submission requirement is no longer to ensure that suppliers provide secondary submissions to EPA, but to properly ask that they do so. Consistent with 40 CFR 711.15(b)(3)(i), a request for a secondary submission to EPA must

be prepared using e-CDRweb, include instructions for electronically submitting the information to EPA, and explain how to provide a clear reference to the primary submission. Documentation of the request to the supplier must be submitted to EPA along with the rest of the primary submission.

Finally, EPA has also modified the requirements to more clearly reflect, see proposed rule (Ref. 1), that they only apply in cases where a supplier will not reveal the pertinent chemical identity information to the submitter. In the event that a manufacturer (including importer) actually knows the chemical identity of a chemical substance subject to IUR reporting, the manufacturer must provide that information irrespective of a supplier's confidentiality claims. EPA has modified the substantiation question at 40 CFR 711.30(b)(1)(i) to include information about harm to the submitter's competitive position "or to your supplier's competitive position."

b. *Comments on reporting International Union of Pure and Applied Chemistry (IUPAC) names as an alternate.* A commenter recommended allowing IUPAC names as a substitute for CA Index Names for discrete chemical substances, because the IUPAC nomenclature provides the exact chemical structure and because the commenter was concerned that submitters would be required to go through a particular fee-based service to obtain CA Index Names for chemical substances.

The Agency disagrees that IUPAC names should be allowed as a substitute for CA Index Names in reporting discrete chemical substances for the IUR. Chemical substances are listed on the TSCA Inventory using CA Index Names, and only chemical substances listed on the TSCA Inventory are to be reported for IUR. The requirement for using CA Index names is directly related to positively identifying the listed TSCA Inventory chemical substance. Using a different nomenclature for the purposes of reporting for IUR could create confusion, both for industry and for EPA.

Additionally, there will generally be no need for submitters to use a fee-based service to obtain the CA Index Name and corresponding CASRN for IUR reporting purposes. As part of the electronic reporting process for the IUR, submitters will be able to easily connect electronically from the IUR reporting tool directly to the Agency's SRS database in order to obtain CA Index Names and corresponding CASRNs for all of their non-confidential chemical substances on the TSCA Inventory. These data can then be electronically copied back to the IUR reporting tool.

4. *Chemical identifying number.* Some commenters were opposed to removing the PMN number as an allowed identifying number, suggesting that the Agency might be inundated with requests for TSCA Accession Numbers, and that for historical products, this may pose an extra burden for both industry and EPA. It was suggested that the Agency provide a cross-reference list of PMN numbers to TSCA Accession Numbers so that the information can be easily obtained without additional burden on industry and the Agency.

The Agency has added PMN numbers to the SRS listing to provide a cross-reference list, as suggested by the commenters. The e-CDRweb reporting tool allows the user to search SRS using the PMN number in order to populate the IUR report with the pertinent chemical identification information for confidential chemical substances listed on the TSCA Inventory.

There are certain circumstances where a submitter occasionally may not be sure of the particular PMN case number and TSCA Accession Number the Agency has assigned to one of its confidential substances, such that the submitter would not be able to definitely determine this solely from searching in the SRS. This could happen, for example, if the chemical substance were originally reported as part of a consolidated PMN and the submitter did not learn from EPA which particular case number in the consolidated PMN number sequence corresponds to which of the several reported confidential substances. This could also happen if a certain PMN represented a mixture of two or more confidential substances, such that multiple TSCA Accession Numbers were assigned to the different substances reported in that single PMN, and the submitter didn't already request the particular TSCA Accession Numbers from EPA for the individual chemical substances comprising that multi-component type of PMN. In such circumstances, a submitter should contact EPA in writing, well before initiating IUR reporting, to obtain the required TSCA Accession Numbers from the Agency. The Agency will respond to such inquiries in as timely a manner as possible. It is the responsibility of the submitter to contact EPA for such information in sufficient time to allow for the Agency to respond.

5. *Production volume*—a. *Report production volume for each year.* EPA requested comment on the requirement to report production volume for each of the 5 years since the last IUR principal reporting year. Comments submitted on various topics are described in this unit.

i. *Insufficient time to collect data.* Most commenters stated that companies were prepared to compile and report the required information for the 2010 reporting year; some companies indicated, however, that they had not established systems to collect and compile information for 2006–2009. Several commenters recommended that EPA delay the implementation of the reporting requirement until the next reporting cycle to allow companies sufficient time to prepare for the additional data collection effort. One commenter was concerned that the short period of time given by EPA to collect the information will result in significantly decreased data quality and reliability. Another commenter said that most companies archive data after 18–24 months. Some found it confusing that the threshold to determine the need to report in one submission period would change to include production data from previous years, but that the reporting of production data from previous years would take effect in an earlier submission period.

EPA acknowledges the possibility that certain information respecting past production volume, for the years between 2006 and 2009, might not be known or reasonably ascertainable to a submitter in 2012. While submitters are free to designate as "not known or reasonably ascertainable" any information that has indeed passed out of the scope of reporting due to the passage of time, EPA has determined it is nevertheless appropriate to reduce the extent to which submitters will need to resort to such designations, and to focus on more recent production. EPA believes that phasing in the reporting of past production volumes as follows will both improve the quality of the information collected and reduce the burden of collecting it.

Based on the comments received, EPA is requiring that for the 2012 submission period, manufacturers (including importers) report the total annual volume (domestically manufactured and imported volumes in pounds) of each reportable chemical substance at each site during the calendar years 2010 and 2011. For submission periods subsequent to the 2012 submission period, the total annual volume (domestically manufactured and imported volumes in pounds) of each reportable chemical substance at each site for each complete calendar year since the last principal reporting year are required to be reported. EPA believes its decision to require the reporting of 2010 production volumes in

a 2012 submission period is consistent with the comments noting that companies were prepared to report 2010 data and that the Agency's decision to phase in reporting for each complete calendar year since the last principal reporting year is warranted in light of other simultaneous changes to the IUR rule which increased reporting burden. The Agency also believes the delay to report the production volume for each year since the last principal reporting year will give companies adequate time to establish systems to collect and compile the required information.

ii. *Reporting burden.* Several commenters stated that the requirement is overly burdensome, especially for chemical substance importers and manufacturers who (according to the commenters) will need to analyze all products to track the volumes of all component chemicals. Another commenter acknowledges that, while the burden of reporting the data for each principal reporting year was minor, the information would be of little value to the Agency. On the other hand, one commenter stated that this requirement could increase the burden by at least three fold. Another commenter said that in some cases, businesses have no need to capture past production volumes. One commenter asserted that many companies will consider the production volume in every year to be CBI and will take the necessary steps to request CBI coverage of this information. The commenter acknowledged that the information will still be available to EPA for consideration, but was concerned that the burden on EPA of keeping the information confidential will increase substantially due to the potential number of CBI claims.

EPA's burden estimates represent the average burden across all sites for providing production volumes. As such, commenters should be aware that their particular circumstance may not be average and, therefore, the estimate may not accurately reflect their own individual circumstances. However, EPA is confident that the estimate does reflect the average burden across all sites and encompass the range of burdens faced by submitters.

In addition, some comments identified a misunderstanding of the reporting requirements with respect to byproducts. As described elsewhere in this unit, accounting for the manufacture of a byproduct does not necessarily entail accounting for each individual component chemical substance in the byproduct. See the more detailed discussion of issues related to byproducts in section F.3. of the Responses to Comments document (Ref. 12). The Agency does expect that the reporting burden will decrease in reporting cycles beyond 2016, as submitters put additional recordkeeping procedures into practice.

As with any data element, CBI claims should only be made when warranted. While more CBI claims may increase EPA's burden slightly, the Economic Analysis estimates the amendments will save EPA approximately $68,000 in the first reporting year and $175,000 in subsequent reporting cycles through efficiencies from electronic reporting (Ref. 14). CBI claims on production volumes are unlikely to create any significant burden beyond what is estimated in the Economic Analysis. CBI claims do, however, prevent valuable information about chemical substance manufacture (including import) from becoming publicly available.

iii. *Retroactive reporting.* Several commenters expressed concerns asserting that EPA retroactively is requiring historical data and that the requirement for past production information was beyond the scope of EPA's TSCA authority for IUR reporting. Another commenter said it was not feasible to accurately produce this historical data for the many byproducts that companies produce and send for recycling, primarily because manufacturers did not know they needed to have such data gathering mechanisms in place.

EPA disagrees with commenters' suggestion that requiring reporting information on past production constitutes an imposition of retroactive reporting requirements. This is because the final rule does not establish a new legal requirement to have taken some particular recordkeeping action in the past. Instead, it holds submitters to a prospective standard of reasonableness. To the extent that a particular piece of information about the past is indeed not known or reasonably ascertainable at the time that a person is obligated to make a submission (either because of the timing of a change in the reporting requirements or for some other reason), the submitter may simply indicate that the information is "not known or reasonably ascertainable."

iv. *Alternate approaches.* A few commenters suggested that burden would be reduced if companies reported in ranges or provided best estimates. Other commenters suggested that reporting be limited to a subset of industries or chemical substances, based on criteria to focus on data collection and evaluation activities that are more valuable to the Agency. Examples of criteria include substances with a history of fluctuations in chemical substance manufacture and import practices or substances that are considered hazardous.

EPA disagrees that reporting production volume in ranges or estimates would provide data of comparable value. Though EPA requires some of the IUR information to be reported in specified ranges, EPA sees little value in allowing submitters to report the production volumes in ranges. Similarly, EPA sees little value in allowing submitters to provide estimates that do not reflect all information known or reasonably ascertainable. EPA believes that a higher level of confidence in data accuracy will be achieved by requiring specific numeric data that reflect all information known or reasonably ascertainable to the submitter. It is important to note that EPA is interested in use and other exposure-related data on all chemical substances that are not exempted from IUR reporting, and manufacturing exposure-related data on partially exempted chemical substances. Especially since there is a multi-year gap between IUR submission periods, the mere fact that a chemical substance is not known to be hazardous at this time does not mean that EPA is not interested in exposures and uses of that chemical substance. Under a contrary policy, EPA would potentially need to wait several years before obtaining the basic exposure information necessary to determine whether a hazardous chemical substance may present an unreasonable risk (since the collection of screening-level exposure information would not be triggered until hazard data had been assessed). In summary, after considering the suggestions, EPA believes its decision to collect multi-year production volume starting with the 2016 IUR submission period is still sound.

EPA disagrees with the suggestion that reporting be limited to a subset of industries or chemical substances. The IUR data are used extensively in the Agency's screening and prioritization process. As such, identifying a list of chemicals or industries prior to screening would not provide EPA with the data needed for its programs and defeats the purpose of collecting the data. EPA does not believe it practicable to provide a definitive list of chemical substances with a "known history of fluctuations." The Agency does not have such a list, and believes that because year to year fluctuation could be caused by such a wide variety of circumstances, including circumstances such as economic changes and manufacturing practices, that

developing and maintaining such a list is not only not practicable, but confining that list to substances with a "history" of fluctuations would not capture the industry variability that EPA is seeking.

b. *Volume of chemical substances used on site.* One commenter stated that this data element was essential to improving accuracy and utility of the reported production volume and two commenters stated they thought there was no value in this data element and that the Agency should retain the site-limited check box because, the commenters stated, it was more informative for screening-level risk assessment. Five commenters expressed confusion about the requirements of reporting this data element. Specific concerns included a concern about duplicative reporting for this data element and the industrial processing and use information for chemical substances used on-site; whether this applied to chemicals used in synthesis or also to chemicals that were repackaged; and the need to identify the amount of a chemical substance present on site during a specific time period.

EPA agrees with the commenter who felt that reporting volumes of chemical substance used at a site will increase the accuracy and utility of the IUR reporting information. Reporting the volume used on-site provides valuable information related to potential exposures associated with the on-site volumes, providing the Agency with better information for exposure assessments. The usefulness of this IUR data element has been demonstrated by EPA's use of similar data in the New Chemicals Program. PMNs for new chemical substances submitted to EPA under TSCA section 5 require many of the same exposure-related data elements that will be reported under the IUR. Exposure-related data in PMNs include estimates of production volume, categories of use, percent production volume in the categories of use, maximum numbers of workers exposed, and concentrations and physical forms of the chemical substance. EPA uses these exposure-related data to generate screening-level risk assessments for regulatory decisionmaking under TSCA section 5. The reporting obligation and the phrase "site use" applies to all nonexempt substances produced for commercial purposes that are on the TSCA Inventory.

Some of the commenters have misunderstood this data element, which provides more detailed and clearer information than did the previous site-limited check box. Previously, submitters checked a box to indicate that a reported chemical substance was site limited—in other words, that it was both manufactured and used on the site. Some submitters misreported, identifying an imported chemical substance as site-limited (a situation that is not possible because the imported chemical substance, by definition, is brought onto the site from outside of the United States, and therefore is not physically manufactured and used at the reporting site) or reporting the same substance twice, once for the volume that is site limited and once for the volume that is sent off site. Because of this confusion, EPA replaced the site-limited check box with reporting the volume of the chemical substance production volume reported on the form that is used on the site. For example, if 50,000 lb of a chemical substance was manufactured and used on the same site, the submitter would report 50,000 lb for domestically manufactured and 50,000 lb for the volume used on-site. If 70,000 lb of a chemical substance was manufactured, 25,000 lb was used on-site and 45,000 lb was shipped to a different site, the submitter would report 70,000 lb for domestically manufactured and 25,000 lb for the volume used on-site. If a site imported 30,000 lb and used it at the import site, the submitter would report 30,000 lb for imported production volume and 30,000 lb for the volume used on-site. If a site imported 100,000 lb and shipped it to an alternate site, the submitter would report 100,000 lb for imported production volume and 0 lb for the volume used on-site. As these examples illustrate, the submitter is not identifying the amount of a chemical substance on-site during a particular time period, but rather that amount of a chemical substance that is manufactured (including imported) and used at the same site.

Commenters also asked for clarification regarding the activities considered to be "used at the reporting site." For a domestically manufactured substance, if the volume would have been considered to be site-limited, then the chemical substance is used on site. If the chemical substance is domestically manufactured, temporarily stored, and then packaged for shipment off of the site, that volume would not be considered "used at the reporting site." For an imported substance, any use at the importing site (e.g., consumed in a reaction or cross-linked or cured in an article) would be considered "used at the reporting site."

EPA does not believe reporting the portion of the production volume that is both manufactured and used on site will result in duplicative reporting. Even with the previous site-limited check box, submitters provided information about the use of a chemical substance in both the manufacturing and industrial processing and use sections of the Form U. The information reported under the manufacturing section identifies that this substance is processed or used at that particular site and reports the number of workers associated with the manufacture of that substance. In the same report, the information reported under the industrial processing and use section provides more details about how the chemical substance is processed or used and, in the event that a substance has a use identified by the same combination of use, function, and NAICS code by another site, the production volumes, sites, and workers would be combined with the information describing the other sites' processing or uses.

c. *Report volume exported.* The majority of the comments against reporting the volume directly exported stated that capturing the volumes for each chemical substance in each exported product was difficult and burdensome. These comments indicated a misunderstanding of the reporting requirement, and EPA believes that a better understanding will eliminate those concerns. For the chemical substance that was manufactured and is being reported, the submitter is to report the volume of that chemical substance that is directly exported. If the chemical substance is processed in any way (*e.g.*, combined with other chemical substances to form a mixture), the chemical substance is not directly exported. Also, if a chemical substance is sent to a distributor who then exports it, the chemical substance is not directly exported. In both of these examples, the manufacturer would instead report either the processing to form a mixture or the transfer to a distributor under the processing and use portion of the IUR reporting form. "Directly Exported" and "Domestically Processed or Used" are mutually exclusive designations; only one designation applies to any particular portion of the production volume.

6. *Identify whether a chemical substance is to be recycled, remanufactured, reprocessed, reused, or reworked.* EPA received several comments on the proposal to add a checkbox indicating whether a manufactured chemical substance was or is expected to be recycled, including remanufactured, reprocessed, reused, or reworked. Some commenters were supportive of adding this reporting element, but several of the commenters were concerned that the term "recycle"

has been difficult to define in other programs, indicated confusion about EPA's purpose in including the checkbox, and expressed doubt that this data element would yield useful information.

EPA intends that this checkbox would be used by manufacturers to indicate whether a chemical substance they manufactured, such as a byproduct, which might otherwise be disposed of as waste, was or is expected to be recycled. EPA also included the terms remanufactured, reprocessed, reused, or reworked, intending to capture a broad array of similar, and perhaps synonymous, activities by which a substance (that would otherwise be disposed of as waste) may be put to use. EPA is interested in the exposures from these activities, and believes that having more information about which chemical substances are being recycled will help the Agency to refine future IUR reporting requirements (*e.g.*, if EPA knows enough about exposures to a chemical substance from an on-site recycling use, EPA could consider an exemption in the future).

EPA also believes that this information would help the Agency to identify where this activity is already occurring, and could be used to recognize companies, industries, and sectors that are using "green" practices. This information would also help to identify sectors where recycling is not occurring, providing useful data to measure the effectiveness of various EPA programs, such as the Resource Conservation Challenge (RCC) Program, and informing other Agency efforts to encourage practices that reduce waste. EPA disagrees that a precise definition of "recycle" is needed to make this data element useful for the purposes that EPA has identified. Submitters should simply indicate, to the extent that they know or can reasonably ascertain, whether the reported volume of the chemical substance that they manufactured, which would otherwise be disposed of as waste, was or is expected to be recycled, remanufactured, reprocessed, or reused, as those terms are understood by the submitter.

One commenter indicated that many chemical substances are "reworked" in many industrial processes, at least at some point, so this box would be checked so often that it would provide little meaningful data. EPA agrees that the term may be interpreted and applied too broadly to provide the type of information that EPA is trying to collect, so has removed "reworked" from the list of recycling synonyms. Two commenters expressed concern that revealing whether a chemical substance they manufactured was recycled would reveal CBI. In such a situation, the submitter will be able to claim the information as confidential. Another commenter suggested that EPA collect information about recycling under a separate rulemaking. EPA disagrees that this would be an efficient way to collect the desired information. A separate rulemaking for one "yes or no" data element would be extremely inefficient and needlessly time-consuming for both the Agency and industry, particularly when the IUR rule already provides a suitable vehicle to collect chemical substance manufacturing, processing, and use information.

7. *Industrial processing and use information*—a. *Industrial function categories.* The Agency received several comments regarding revising the list of industrial function categories for processing and use information. Some commenters were in favor of the changes and supported EPA's efforts to work collaboratively with Canada to align the categories. Other commenters said that this would require additional effort by the regulated community to assign the new codes, and a clear explanation of the changes with the reporting instructions, *e.g.*, a "read across" of old and new codes, including additional definitions to ensure that activities are consistently coded across companies. Commenters stated that providing a description for "other" will be challenging, may not provide useful information (*e.g.*, due to lack of information from the downstream customers), and would require additional burden to report. One commenter felt that the list of Industrial Function Category (IFC) codes is too limited for inorganic chemical substances, and suggested that the Agency add an IFC code for "Solid Manufacturing Materials." The comment stated that such a code would alleviate the need to address many industrial uses in the "other" category, thereby reducing reporting burden.

EPA agrees with the commenters that a table indicating the relationship between the 2006 IFC codes and the new 2012 IFC codes would be useful, along with clear definitions for each code. Such information is contained in the 2012 IUR Instructions document (Ref. 7).

EPA also recognizes that the requirement to report a description when the submitter selects the IFC code "Other" may be more burdensome than for the other IFC codes, but expects any increase to be minor. The descriptive information is essential to enable users of the data to estimate potential exposures associated with the overall processing or use of the chemical substance, of which the function is an important component. The Agency's experience with the 2006 IUR data was that the category of "Other," with no further description, was insufficient for the data to be of much use.

EPA disagrees with the suggestion to include a "Solid Manufacturing Materials" IFC code and believes such a code will not accurately describe the industrial function of the chemical substance. In addition, EPA believes the proposed list of IFC codes covers the majority of the industrial functions. This belief is based on the past experience of both the U.S. 2006 IUR and Canadian reporting. However, EPA does recognize that it did not collect such information for inorganic chemical substances in the past, and therefore will use the written description for "Other" to help evaluate and improve the inclusiveness of future IFC codes, including those applicable to inorganic chemical substances.

b. *IS codes.* EPA proposed to replace the 5-digit NAICS code with a new code, Industrial Sector (IS), to describe the industrial setting. Some commenters were in favor of this change, noting that using code harmonized with Canadian codes would be helpful to both industry and data users. Other commenters stated that many companies have already begun the process of data collection based on the former system, which has precedent. The commenters believe NAICS codes are the classification system with which industry and regulators are most familiar, and in some cases, the IS codes are less descriptive than the NAICS codes. Commenters also asserted that the Agency should recognize that these changes will result in increased reporting burden and time.

EPA disagrees with the commenters that the use of IS codes in place of the NAICS codes will present increased burden on industry. The IS codes simply group together similar NAICS codes while still providing the sufficient differentiation needed to differentiate overall industrial processing and use scenarios. The IS codes span the entire range of NAICS codes and can be translated from known NAICS codes. Both the e-CDRweb reporting tool and the 2012 IUR Instructions document (Ref. 7) contain cross-walk tables for submitters to use to determine the proper IS code, based on the NAICS code information they may already have collected.

Information on the Agency's development of the IS codes is described in the technical support

document "Inventory Update Reporting (IUR) Technical Support Document—Replacement of 5-digit NAICS Codes with Industrial Sector (IS) Codes" (Ref. 16). In developing the IS codes, EPA considered the level of detail required for developing use and exposure scenarios, the number of 2006 IUR submissions using the code, the code definition, and the level of difficulty required in reporting more detailed codes. Submissions to the 2006 IUR reported over 340 unique 5-digit NAICS codes. In the 2006 IUR, the three-code combination of processing and use (P/U) code, NAICS code, and IFC codes resulted in a large number of possible exposure scenarios that could be reported. Although not all of the NAICS codes are applicable to chemical substance manufacturing and processing, the 2006 IUR database has over 2,300 unique combinations of P/U, NAICS, and IFC. Many of the NAICS codes reported are from similar industries that would have similar exposure scenarios.

EPA agrees that the new IS codes are less descriptive than NAICS codes, but believes the reduction in specificity will not adversely affect, and will actually improve, the Agency's ability to use the processing and use data for screening-level purposes. The large number of unique combinations increases the difficulty and time required to sort and classify chemical substances since EPA would either need to develop exposure scenarios for each unique combination or determine which three-code combinations have similar exposure scenarios and can be grouped together. By replacing the NAICS codes with the IS code, the number of potential three-code combinations is reduced from in excess of 100,000 possible combinations to 7,920 combinations. Based on information collected from the last reporting cycle the number of combinations actually reported would be significantly less. Additionally, the IS codes will more closely align to the EU Sector of Use codes which will allow EPA to compare U.S. data with that collected by the European Union.

8. *Consumer and commercial use*—a. *Consumer and commercial product categories.* Many commenters supported revising the list of consumer and commercial product categories for consumer and commercial use information. Those commenters stated that harmonizing codes with Canada, revising the product categories, and requiring descriptive information when the "Other" category is reported are essential to improving the consumer and commercial data. The commenters stated also that these changes will provide a better understanding of how chemical substances are used in downstream products and will help facilitate consistent reporting of chemical substance use information in the United States and Canada. Other commenters wanted more explanation as to why the categories are being revised and requested that the Agency provide more descriptive information for each product category, including a table identifying how the new categories relate to the previous categories. Some commenters stated that providing a description for the category "Other" will be challenging and may not provide useful information. One commenter stated that the Agency should not further complicated downstream reporting, noting that was already challenging to choose the top ten categories for substances with a large number of uses.

EPA appreciates the support for the harmonized consumer and commercial product categories, and agrees that the changes finalized in this rule will improve the IUR data. As described in Unit III.G.8.a., information from data collected during the 2006 IUR and from Canada was used to develop a more useable listing of product categories. EPA eliminated categories for which few chemical substances were reported, added categories identified as needed, and eliminated overlap in categories. In addition, some categories were renamed to better match their definitions, other categories descriptors were improved, and categories were grouped to allow for easier identification. EPA believes these changes will make reporting easier for the submitter, and does not agree that these changes result in more complicated reporting. The Agency is providing more detailed descriptive information in the 2012 IUR Instructions document (Ref. 7) and other guidance materials.

EPA recognizes that the requirement to report a description when the submitter selects the product code "Other" may be more burdensome than for the other product codes, but expects any increase to be minor. The descriptive information is essential to enable users of the data to estimate potential exposures associated with the consumer or commercial use of the chemical substance. The Agency's experience with the 2006 IUR data was that the category of "Other," with no further description, was insufficient for the data to be of much use.

b. *Designation of consumer or commercial use.* Commenters had mixed viewpoints regarding the need to designate whether the indicated product category is consumer use, commercial use, or both. One commenter strongly in support of making this designation stated that such distinctions are critical to EPA's ability to assess exposure at even the most basic level. Others did not oppose the added designation, but did ask for further clarification between consumer and commercial uses. Commenters opposing the added designation stated that they were too removed from the consumer and commercial uses to have a clear understanding of the uses at that level of distinction, especially for commodity chemical substances with a large number of uses. One commenter said suppliers to formulated products were less likely to know the distinction because of the confidentiality of the downstream user formulations.

The intent of the consumer and commercial use data element is to clearly identify the exposed populations. These two populations (*i.e.,* consumers and commercial workers) are very different from each other, and the ability to distinguish uses between the two enables better exposure-based screening of chemical substances. EPA recognizes that submitters may not always have detailed information about how the chemical substance(s) they make are used and to what extent they are used. However, EPA believes a manufacturer generally has a certain awareness of the downstream uses of chemical substances it manufactures and sells, even if it does not control its customers' sites, and can report this information, based on what is known to or reasonably ascertainable by the submitter.

c. *Number of commercial workers.* Commenters strongly opposed EPA's proposal to require that submitters report the number of commercial workers reasonably likely to be exposed while using a product containing a reportable substance. Most commenters indicated that they do not have sufficient information about the work practices of eventual commercial users to estimate this number, that such information is not typically shared upstream, and that any such data EPA received would be, at best, an educated guess. It was suggested that the Agency rely on worker statistics from the Bureau of Labor Statistics as it conducts risk assessments, or gather additional data under a separate TSCA section 8(a) rule.

EPA is requiring this information to better assess the size of the commercial population in screening risk assessments. In the past, the Agency has used the Bureau of Labor Statistics for general workers statistics to conduct

chemical-specific risk assessments; however, these worker statistics, which are industry-specific, overestimate the exposures associated with a chemical substance because a chemical substance is likely to be used by only a portion of the industry. Identifying chemical-specific worker populations for downstream activities will fill this gap for the Agency. The knowledge of a chemical substance's uses in industry and the respective commercial population potentially affected by their uses provides the Agency a more complete picture of the potential risks associated with a chemical substance.

EPA recognizes that submitters may not always have detailed information about how the chemical substance(s) they manufacture are used and to what extent they are used in commercial enterprises. However, EPA believes that a manufacturer generally has a certain awareness of downstream uses of chemical substances it manufactures and sells, even if it does not control its customers' sites. Based on its experience with the PMN program, many stakeholder meetings, discussions about voluntary risk management programs, and industry's various self-regulation initiatives, the Agency believes that most submitters can report on downstream uses, including the information that would be reported under IUR, based on what is known to or reasonably ascertainable by the submitter. To reduce the burden in reporting; the IUR provides that the number of commercial workers need only be reported in ranges, and the ranges are the same as for manufacturing and industrial workers. Reporting in ranges will lessen the reporting burden when the precise number of workers for multiple end uses is not known. Although this may result in some uncertainty in the data reported, the chemical substance manufacturer or importer has fulfilled his obligation by providing information to the extent it is known or reasonably ascertainable. EPA believes that the data will be sufficiently reliable for the Agency and others to use for screening-level risk assessments and prioritization.

E. Definitions and Clarification Requests

1. *Changing the reporting standard for processing and use information to "known to or reasonably ascertainable."* A number of commenters requested further clarification (beyond that offered in section 4.0 of the Instructions document (Ref. 7)) of the scope of pre-reporting inquiry that would be required under the "known to or reasonably ascertainable by" reporting standard. Specifically, the commenters requested further clarification of how this reporting standard would apply in the case of information reported under 40 CFR 711.15(b)(4) ("specific information related to processing and use"). The commenters also expressed some confusion about how this standard would differ from the "readily obtainable" standard, previously applicable to such reporting, and whether the change of standard indicates that "extensive file searches and customer surveys" would now be expected of submitters. Other commenters from the chemical industry expressed their understanding that the change in reporting standard only altered the level of diligence with which submitters must search for information within their own organization. They requested confirmation that, as under the "not readily obtainable" standard, submitters would not be required to conduct customer surveys in order to assemble data for purposes of IUR.

The term *known to or reasonably ascertainable by* is defined at 40 CFR 704.3. It means "all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know." By contrast, "readily obtainable" information does not even cover all the information in a submitter's possession or control. As defined for the 2006 IUR, it was limited to what was known by certain "management and supervisory employees of the submitter" (Ref. 4, p. 879).

Under the "known to" portion of the "known to or reasonably ascertainable by" standard, a submitter would therefore ascertain what it knows about the processing and use of a chemical substance it manufactures (including imports), without confining its inquiry solely to what is known to managerial and supervisory employees, but would also be expected to review other information which the manufacturer (including importer) may have in its possession. In response to comments regarding the level of diligence with which submitters must search for information within their organization, this standard requires that submitters conduct a reasonable inquiry within the full scope of their organization (not just the information known to managerial or supervisory employees). The inquiry would be as extensive as a reasonable person, similarly situated, might be expected to perform within the organization. Information derived from customer surveys or other customer contacts, like any other information, would be "known to" the submitter if it is available after a reasonable inquiry within the organization. The standard does not necessarily require that the manufacturer conduct an exhaustive survey of all employees.

EPA agrees that further clarification would be useful regarding what is "reasonably ascertainable" to submitters about processing and use information because this component of the reporting standard potentially may require submitters to obtain information previously unknown to them, for the purposes of reporting. This circumstance could arise if a submitter knows less than that what is reasonably ascertainable to it. EPA is therefore offering the following further guidance regarding the interpretation of this term.

For many of the reasons identified by industry commenters (*e.g.*, the expense and burden of surveying customers, and uncertainty as to the extent to which customers will respond to such surveys), EPA agrees that if particular information cannot be derived or reasonably estimated without conducting further customer surveys (*i.e.*, without sending a comprehensive set of identical questions to multiple customers), it would not be "reasonably ascertainable" to the submitter. Thus there is not a need to conduct new customer surveys for purposes of the IUR. However, to the extent that customer surveys are already in the submitter's possession or control, and to the extent that reasonable efforts to locate or analyze those surveys may result in additional processing and use information (or reasonable estimates of such information), the information is generally "reasonably ascertainable." Also, as illustrated by the examples in Unit III.H., inquiry under the "reasonably ascertainable" standard may entail inquiries outside the organization to fill gaps in the submitter's knowledge. Further examples of actions that would meet the "known to or reasonably ascertainable by" reporting standard are provided in Unit III.H.

A number of commenters objected to the "known to or reasonably ascertainable by" standard on the grounds that it was subjective or too vague to be appropriately applied to the collection of processing and use information outside of the submitter's direct control. Other commenters objected to the standard's reference to what a reasonable person similarly situated "might" be expected to possess, control, or know. They suggested that the standard be amended to what a reasonable person "should" be expected to know.

EPA does not agree that the "known to or reasonably ascertainable" standard is subjective or excessively vague. The standard is set forth in EPA's statutory authority to collect information under TSCA section 8(a), and EPA's definition is consistent with Congressional intent to establish an objective standard: "The conferees intend that the 'reasonably ascertainable' standard be an objective rather than a subjective one. Thus, the manufacturer or processor must provide information of which a reasonable person similarly situated might be expected to have knowledge" (Ref. 23, p. 80). Thus, whether a particular level of diligence meets this standard does not depend on the submitter's subjective view of what seems a reasonable person "should" be expected to know. It turns on an objective question: The level of diligence that a reasonable person, similarly situated, might expect to undertake. EPA believes it is appropriate to define the standard consistently for all persons reporting under TSCA section 8(a), and that the existing definition appropriately reflects Congressional intent. Finally, EPA does not think the standard of objective reasonableness will be unfamiliar to submitters. It is included into a wide variety of legal standards under State and Federal law, and in the 2006 IUR it applied to all aspects of the information collection other than processing and use information.

2. *Clarifications to byproduct reporting*—a. *Concern that new byproduct reporting requirements are being added.* In general, some commenters asserted that EPA's explanation of the IUR byproduct-related reporting requirements reflect new requirements, inconsistent with current byproduct exemptions.

EPA is clarifying, not enlarging, the reporting requirements for byproducts, which have been in place for decades. The definitions of *byproduct* and *manufacture for commercial purposes* (referencing byproducts) at 40 CFR 704.3 have been in place since 1983 (Ref. 24), and have been applicable to the IUR since the IUR's inception in 1986 (Ref. 3, p. 21447 (incorporating definitions from 40 CFR 704.3)). The reporting exemptions for byproducts at 40 CFR 720.30(g) and (h) (cross-referenced at 40 CFR 711.10) have also been in place since 1983 (Ref. 25), and have also been applicable to the IUR since the IUR's inception (Ref. 3, p. 21447). While this final rule is modifying the definition of *manufacture,* the pertinent portion of the revised definition (providing that manufacture includes "the extraction, for commercial purposes, of a component chemical substance from a previously existing chemical substance or complex combination of chemical substances") is consolidated from materially identical language found in the previously applicable definitions of *manufacture* and *manufacturer* at 40 CFR 704.3. This specification of the scope of "manufacture" has been in force for IUR purposes since 1988. (See Ref. 3, p. 21447 (1986 incorporation of definitions from 40 CFR 704.3 into the IUR) and Ref. 26, p. 51716 (1988 revision to 40 CFR 704.3)).

In 1983, EPA promulgated a rule that made clear (for subsequent IUR and PMN purposes) that the reporting exemption for the manufacture of byproducts is only potentially applicable to the manufacture of the byproduct and would in no case apply to the manufacture of component substances extracted from the byproduct. 40 CFR 720.30(g)(3). Furthermore, it has been the Agency's position since at least 1991 that, in order for byproduct manufacture to qualify for the 40 CFR 720.30(g)(3) exemption, "the component to be extracted must be already existing as a distinct chemical substance in the waste stream" (Ref. 27). When the chemical substance present in the byproduct and the chemical substance extracted from the byproduct are distinct chemical substances, neither the manufacture of the byproduct nor the manufacture of the extracted chemical substance qualify for the 40 CFR 720.30(g)(3) exemption. See also the discussion in Unit IV.2. The guidance docketed with this final rule, which explains existing byproducts reporting requirements under the IUR, is consistent with past guidance issued in connection with the IUR and TSCA New Chemicals Program. For example: In a 2002 response to public comments on a previous proposed amendment to the TSCA Inventory Update Rule (Ref. 4), EPA explained that "distillation, extraction, refining, and similar activities may result in the manufacture of a chemical substance." In a 2006 letter to the Aluminum Association, EPA described a circumstance in which the extraction of aluminum from aluminum dross byproduct constituted the reportable manufacture of aluminum, while cautioning that if the aluminum is "chemically changed during the extraction process," then not only the extracted aluminum but also the dross byproduct would be reportable under the IUR (Ref. 28). In 2008, EPA provided similar guidance by letter to the Association Connecting Electronics Industries (IPC), another trade group (Ref. 29).

Due to the 2003 expansion of the IUR reporting requirements to inorganic chemical substances, many companies have recently become aware of their status as chemical substance manufacturers when they recycle their waste materials. Instead of disposing of those waste materials, the manufacturers return them to commerce by recycling the materials—either themselves or through a third party. Recycling may be beneficial for many reasons: It conserves resources, may reduce the expense of purchasing new raw or starting materials, may reduce the reliance of the United States on foreign suppliers of raw materials, reduces the need for landfill or other disposal sites, and returns a waste to commerce. However, many recycling activities fit the TSCA and IUR rule definition of *manufacture,* and are likely to be considered "manufacture for a commercial purpose." EPA has finalized the draft IUR guidance documents that were published with the proposed rule. These documents include examples of many common manufacturing scenarios to assist individuals in determining whether their company is manufacturing a chemical substance that needs to be reported under the IUR (Refs. 7 and 30).

b. *Concerns about the IUR byproduct reporting requirements, in relation to RCRA and the Toxics Release Inventory.* Some commenters asserted that byproducts should be regulated, if at all, under RCRA and/or reported under TRI, and should not be subject to IUR reporting requirements. One commenter suggested that EPA revisit the entire issue of the management of recycled materials to determine the appropriate roles for the TSCA and RCRA programs. Some commenters also asserted that reporting under IUR presents a disincentive for recycling.

In broad terms, the purpose of TSCA sections 8 (governing the IUR) and 5 (governing PMN reporting) is to understand the universe of chemical substances in commerce in the United States. (TSCA section 5 also provides EPA with the ability to control for risks of new chemical substances before they are placed into commerce.) The IUR requires reporting of manufacture, processing, and use information for chemical substances in commerce, and exemptions exist for those substances or manufacturing activities for which EPA has a low current interest. With limited exception, such as those included in 40 CFR 720.30, all chemical substances in commerce in the United States are to be listed on the TSCA Inventory; companies can trigger the addition of a chemical substance to the TSCA

Inventory by filing a PMN and meeting certain other requirements.

RCRA is focused on waste—it is concerned with the generation, transportation, treatment, storage, and disposal of hazardous wastes and the management of non-hazardous solid wastes. RCRA is also focused on waste minimization, phasing out land disposal of hazardous waste, corrective action for releases, and recycling. EPA notes that while RCRA or other statutes may exempt a certain chemical substance from reporting requirements based on certain treatments or disposals, RCRA exemptions in most cases are not relevant to TSCA reporting obligations. It is important to note that finding a commercial use for a substance previously treated as a waste under RCRA can relieve the manufacturer of that substance from some RCRA requirements, but may then subject that manufacturer to TSCA reporting requirements. Also note that 40 CFR 720.30(g) provides IUR exemptions for certain uses of byproducts. In certain circumstances, reporting under both RCRA and TSCA may be required. As noted earlier, the purposes for reporting under RCRA and the TSCA IUR are different, and therefore the required data sets are different. While the data sets are not duplicative, EPA recognizes that there may be limited circumstances where particular elements of the data sets overlap. EPA strives to reduce such overlap, while ensuring that it is administratively feasible to collect and collate the data that are needed for TSCA purposes. The TSCA program is continuing its work with the RCRA program to maintain coordination between the two programs. It is important to note that the application of RCRA regulations varies state-by-state, and recent changes to RCRA regulations have not been adopted by all states. Therefore the overlap between RCRA reporting and IUR reporting may vary depending upon the state in which a submitter's site is located.

A similar situation exists for some sites that meet the requirements to report under both TRI and IUR. The TRI program goal is to provide communities with information about toxic chemical substance releases and waste management, and the TRI reporting requirements are designed to address that goal. Because the IUR program goals differ, the specific information collected under each program is not the same. Where a person must report for both for the same site, EPA and the public will have a broader picture of the exposure scenarios at that site, including environmental releases from that site; while the two information collections may be complementary, neither is an adequate substitute for the other. A more in-depth discussion is provided in the Responses to Comments document (Ref. 12).

EPA believes that commenters' concern that reporting under IUR would be a disincentive to recycle reflects certain misunderstandings of the IUR requirements. The Agency expects that revised byproduct guidance materials, as well as EPA's responses to the comments concerning, for instance, byproduct chemical identification requirements, will help to alleviate the majority of those concerns. EPA believes that many factors play into whether a company chooses to recycle, including the value of the recovered materials, the expense of disposal, desire to maintain or build a "green" reputation, technical limitations or flexibility, state and local requirements or incentives, and the incentives offered or requirements imposed by other federal laws (such as RCRA). EPA strongly believes that the benefits of recycling usually outweigh the burden associated with IUR reporting for these materials, and, just as with any other chemical substance whose manufacture must be reported under the IUR, production volume, worker exposure and other IUR data collected on byproduct chemical substances support the Agency's mandate to protect human health and the environment.

c. *Concerns about how to identify the byproduct chemical substance and with reporting both the byproduct and a chemical substance extracted from the byproduct.* Commenters stated that it is very difficult to identify the chemical substances in a byproduct mixture, and that the mixture can vary over time, depending upon the specific manufacturing situation. Commenters also argued that there would be duplicative reporting by the byproduct manufacturer and the recycler/processor who extracted a component chemical substance from the byproduct mixture.

The comments reflect a misperception that characterizing the identity of complex chemical substances, as are found in or comprise many byproducts, necessarily involves a detailed analysis of the "individual components of the chemical substance." In reality, a byproduct may be listed on the TSCA Inventory as a single chemical substance that represents, for TSCA purposes, what may be a complex composition of chemical substances. In this way, the chemical identity of a byproduct may represent a chemical substance process stream. Complex chemical substances are listed (or can be listed) on the TSCA Inventory as chemical substances of Unknown or Variable composition, Complex reaction products and Biological materials ("UVCB" chemical substances). As described by the commenters, the byproduct "mixture" is often complex and varies over time, making the identification of the individual components a very difficult task. This description itself indicates that the proper identification of such a reaction product is as a UVCB chemical substance. As stated in EPA's on-line guidance, "Each combination of substances resulting from a reaction is considered by the Agency to be either (1) a mixture, composed of two or more well-defined chemical substances to be named and listed separately, or (2) a reaction product, to be listed as a single chemical substance, using one name that collectively describes the products, or, failing that, the reactants used to make the products." (See *http://www.epa.gov/oppt/newchems/pubs/rxnprods.txt.*) Situations may exist where the byproduct substance is actually a mixture, but as further described in the aforementioned guidance, "A combination of products resulting from a chemical reaction is considered a mixture provided that all of the component product substances are unambiguously identified and are represented as forming each time the reaction is run."

UVCB chemical substances in some cases include a TSCA Inventory definition to further describe the chemical substance. Here is one example from EPA's on-line guidance (see *http://www.epa.gov/oppt/newchems/pubs/uvcb.txt*):

Dust, iron-ore, sinter
CASRN 69012–53–9
Definition: Dust generated during the making, breaking and handling of sinter which is recovered through the use of pollution abatement equipment.

A byproduct manufacturer, therefore, would potentially report the UVCB name for the byproduct composition, while the subsequent recycler of the byproduct would potentially report the specific chemical identity of the chemical substance they chemically manufacture from the byproduct. EPA does not agree that such reporting is duplicative, because reporting will fall into one of following two scenarios. If the chemical substance manufactured from the UVCB byproduct is already present as a constituent of the UVCB byproduct, then the byproduct manufacturer need not report the byproduct that is sent for such processing/recycling. If the chemical substance manufactured from the UVCB

byproduct is distinct from any chemical substance present in the UVCB byproduct as a constituent, then the separate reporting by the byproduct manufacturer and the processor/recycler reflects a change in chemical composition. Either way, there is no duplication of reporting between the manufacturer of the UVCB byproduct and the processor/recycler. As a general matter, if there is to be appropriate stewardship of potential chemical substance risks, EPA believes that chemical substance manufacturers, processors, and users should know and understand the identities of chemical substances they handle.

Some commenters stated that many byproduct mixtures in the metals industry are processed to recover the metal values and indicated that the metal value should be considered a component chemical substance (i.e., that if Nickel (II) hydroxide ($Ni(OH)_2$) is present in a byproduct mixture, then the elemental substance Nickel (Ni) should be considered the component chemical substance). EPA disagrees with this statement. (See Ref. 27 for a precedent from a 1991 prenotice communication.) Under TSCA, $Ni(OH)_2$ and elemental Ni are two different chemical substances, with separate listings on the TSCA Inventory. If the byproduct contains $Ni(OH)_2$ but not elemental Ni, only $Ni(OH)_2$ is considered a component chemical substance of the byproduct. The manufacture of elemental Ni from either the $Ni(OH)_2$—bearing byproduct (or $Ni(OH)_2$ itself) results in a potential need to report under IUR. That is, if the extracted component substance is an oxide and used as an intermediate to form an elemental metal, then both the oxide and elemental metal are subject to reporting by their manufacturer(s). Note that information pertaining to manufacture of a chemical substance need only be reported to the extent that the information is known to or reasonably ascertainable by the submitter.

A second example of a metal-containing byproduct is:

Electrolytes, copper-manufg., spent
CASRN 69012–54–0
Definition: Spent copper sulfate electrolyte consisting of copper sulfate and sulfuric acid resulting from the electrolytic refining of copper.

This spent material is a UVCB chemical substance that is likely to be recycled. If the only commercial purpose for this spent material is to extract the component chemical substance copper sulfate, then the manufacture of the spent material is exempted from reporting (but the manufacture of the copper sulfate [via extraction from the byproduct] is subject to reporting). On the other hand, if the spent material is used directly to manufacture elemental copper, then both the spent material and the elemental copper are subject to reporting under the IUR by their respective manufacturers, because elemental copper is not a component chemical substance in the spent material byproduct.

d. *Concerns regarding determining when a byproduct is manufactured.* Commenters stated that clarification is needed regarding purification and extraction and when a chemical substance is considered manufactured versus purified. Commenters asserted that where there is no change in chemical identity, only a change in purity, a chemical substance should not be considered manufactured, regardless of the method of purification.

Much of the commenters' confusion regarding the differences between purification and extraction appears to concern whether extraction or purification involves a change in chemical identity; the potential for a change in chemical identity is closely linked with the proper identification of the manufactured substance, as described in the previous comment response. Where there is no change in chemical identity but rather just a change in purity (an impure chemical substance correctly identified for TSCA purposes as "chemical substance A," for example, undergoing purification to a more pure form of "chemical substance A"), the Agency agrees with the commenter that, for purposes of IUR, the chemical substance is not being manufactured. The chemical substance that appears on the TSCA Inventory may actually represent a category consisting of the same chemical substance in various degrees of purity. For example, if a company manufactures a specific, discrete chemical substance at 90% purity and it is correctly identified as that discrete substance (not having a UVCB name), then increasing the purity of the chemical substance (such that it retains its chemical identity) is considered purification and, for purposes of IUR, such purification is not considered manufacture.

Note, however, that the extraction of component chemical substances from certain complex byproduct mixtures or process streams (*i.e.*, UVCB chemical substances), is not considered purification, because the complex byproduct mixture and the extracted substance do not have the same chemical identity. For example, a manufacturing process involving the use of solvent A results in the manufacture of a spent solvent. As a variable, complex mixture of solvent A, finished product, unreacted reactants, individual byproduct substances, and other impurities, the spent solvent is considered to be a UVCB chemical substance. It is not unusual for the manufacturer to extract solvent A from this UVCB chemical substance. In such a case, the extracted solvent A is considered to be manufactured, and therefore is reportable for purposes of IUR. When the spent solvent is a byproduct whose only commercial purpose is the extraction of a component chemical substance, solvent A, the byproduct exemption at 40 CFR 720.30(g)(3) can be applied and the spent solvent byproduct does not need to be reported. The extracted solvent A is nevertheless reportable for purposes of IUR.

3. *Definitions of "manufacture" and "manufacturer."* EPA received several comments on the definition of *manufacture,* asserting that the definition of manufacture included in the proposed rule was inconsistent with past definitions, over-broad, and confusing.

EPA disagrees, except with respect to minor typographical errors noted in this unit. EPA consolidated existing definitions into a single *manufacture* definition to reduce confusion. EPA also added a very short clarifying definition that "a manufacturer is a person who manufactures a chemical substance," to direct the reader to the relevant language in the definition of *manufacture,* and to avoid confusion with an existing definition of *manufacturer* in 40 CFR 704.3. The definition of *manufacture* is consistent with established regulatory and statutory definitions, and is sufficiently flexible to accommodate the actual allocation of knowledge between toll manufacturers and contracting companies. EPA has separately addressed the comments received relating to the extraction of component chemical substances. (See the discussion on reporting byproducts and recycling in this unit.)

The first part of the definition of manufacture in this final rule is as follows: "Manufacture means to manufacture, produce, or import, for commercial purposes. Manufacture includes the extraction, for commercial purposes, of a component chemical substance from a previously existing chemical substance or complex combination of substances." It is similar to the definitions of *manufacture* and

manufacturer used for past IUR reporting (Ref. 31). For example, the definition of *manufacturer* in effect for the 2006 IUR reporting period is in 40 CFR 704.3: "Manufacturer means a person who imports, produces, or manufactures a chemical substance. A person who extracts a component chemical substance from a previously existing chemical substance or a complex combination of substances is a manufacturer of that component chemical substance." The two similar definitions of *manufacture* in effect for the 2006 IUR reporting period were found in 40 CFR 710.3 ("to manufacture, produce, or import for commercial purposes," and 40 CFR 704.3 ("to manufacture for commercial purposes"). The 40 CFR part 711 definition of *manufacture* is also consistent with the established definition of *manufacturer* used for purposes of PMN reporting, at 40 CFR 720.3. Existing 40 CFR 704.3, which was not modified in this final rule, also includes a definition of *manufacture:* "Manufacture means to manufacture for commercial purposes," and a definition of "manufacture for commercial purposes" that makes clear that byproducts produced during manufacturer are also "manufactured for a commercial purpose."

The definition of *manufacture* in this final rule is also similar to and consistent with TSCA's definition of *manufacture* at TSCA section 3: "'manufacture' means to import in the customs territory of the United States, produce, or manufacture," and TSCA section 8: "For purposes of this section, the term 'manufacture' * * * mean[s] manufacture * * * for commercial purposes." Finally, EPA disagrees with one commenter's suggestion that a new definition of *produce* is necessary to clarify that production involves a chemical substance that is "chemically different" from the chemical substance in the starting materials. "Chemically different" is itself an undefined term, so it would not bring additional clarity to a new definition of "produce." Furthermore, the difference between one chemical substance and another (and hence, the question of whether a chemical substance is being produced) already has a basis in the statutory definition of *chemical substance* at TSCA section 3(2), and in the differences between the entries of the TSCA Inventory.

The second part of the definition, as noted in the preamble to the proposed rule, adds an explanation, derived from the definition of *manufacturer* in 40 CFR part 720, of the conditions under which a contract manufacturer would be considered to "manufacture," and therefore be responsible for IUR reporting. Persons contracting with a toll manufacturer and toll manufacturers are now considered to be co-manufacturers of what is produced at the toll manufacturer's site. Consistent with 40 CFR 711.22(c), such parties should coordinate amongst themselves to submit a single report, rather than duplicative individual reports, respecting what they have co-manufactured. The joint submission mechanism, under 40 CFR 711.15(b)(3)(i), is not available to co-manufacturers. The joint submission mechanism addresses distinct circumstances: Those in which one party is the manufacturer/importer, and a second party (not a manufacturer of the chemical substance in question) possesses confidential information needed to determine the chemical identity of what the first party has manufactured/imported. In the final rule, EPA uses the term *co-manufactured* rather than the proposed term *jointly manufactured*. This change of terminology is intended to avoid confusion between the reporting provisions at 40 CFR 711.22(c) and those at 40 CFR 711.15(b)(3)(i).

EPA notes that one change to the definition of *manufacture* was made to correct a typographical error in the definition as proposed and to address a comment that the definition used confusing syntax. The words "and" and "then" were added to make clear that the conditions in paragraph (1), and the conditions in paragraph (2) (up to the comma), must both be satisfied before a chemical substance will be considered "co-manufactured" by the producing manufacturer (*i.e.*, the toll manufacturer) and the person contracting for such production (*i.e.*, the contracting company).

Several commenters suggested that the toll manufacturer should be primarily or solely responsible for IUR reporting, or expressed concern that the rule would compel contracting companies to submit information on behalf of toll manufacturers. Another commenter supported the assignment of responsibility as proposed. Some commenters also suggested that EPA should "acknowledge the complexity of contractual mechanisms and not offer a blanket, 'one size fits all' requirement for reporting responsibilities."

EPA agrees that a diversity of contractual arrangements may exist, and notes that there was nothing in the proposed rule to prevent toll and contracting manufacturers from sharing information and agreeing between themselves that one or the other will undertake all or a portion of the work associated with IUR reporting for a given chemical substance, though comments indicated that there was some confusion caused by EPA's assignment of "primary" responsibility for reporting to the contracting manufacturer (see 40 CFR 711.22(c)). EPA expects that in most instances, a person that contracts with a toll manufacturer will generally know more about the particular chemical substances, and will usually be a better position to report on industrial processing and use of a chemical substance, and on commercial and consumer uses of products containing the chemical substance. Similarly, EPA expects that the toll manufacturer will generally be in a better position to report on the number of workers and other information about their plant. In light of the contracting company's control over the "total amount produced and the basic technology for the plant process," and based on EPA's expectations of the relative knowledge of the contracting company, EPA initially indicated, in proposed 40 CFR 711.22(c), that the contracting company would be "primarily responsible" for IUR reporting. However, given the confusion introduced by indicating that one party or the other is "primarily" responsible for reporting, and not wishing to interfere in contractual agreements to the contrary, EPA has decided not to allocate "primary" responsibility to either party in the final rule. Conforming changes have been made to 40 CFR 711.22(c) in this final rule. However, the enforceability of the final rule requires EPA to specify the persons who are legally responsible for reporting. In fairness, EPA has chosen to make both parties responsible for reporting on the chemical substances they have co-manufactured, as specified in the proposed rule.

4. *Definition of "site."* Several commenters asserted that the proposed revision to the definition of "site" would force different companies that are at the same site to report together. EPA disagrees with this assertion. In the proposed rule, EPA added explanations to accommodate manufacturing under contract and for portable manufacturing units, and clarified that an importer's site must be a U.S. address. The definition of *site* used in the past, at 40 CFR 710.3, was not otherwise significantly changed. The old definition states that "Site means a contiguous property unit. Property divided only by a public right-of-way will be considered one site. There may be more than one manufacturing plant

on a single site. * * *" This portion of the definition was retained, with slight wording change ("More than one plant may be located on a single site."), in the proposed rule.

The statement "More than one plant may be located on a single site" is meant to guide companies that have multiple plants at one site to sum production volumes and other IUR-reportable data across all of their plants at one site and produce one report for each reportable substance at each site (not at each plant). The definition does not require different companies located at the same site to report together.

5. *Processing and use-related definitions.* EPA received comments in favor of the amended definitions for *commercial use* and *consumer use.* However, a commenter indicated that the definitions of "industrial," "commercial," "function," and "use," were unclear and referred to problems in reporting both product- and substance-level information. EPA appreciates the support for amending the terms *commercial use* and *consumer use* to harmonize the definitions developed by the United States and Canada.

EPA feels the terms "industrial" and "commercial" are adequately defined. To clarify, EPA defines *industrial function* as "the intended physical or chemical characteristic for which a chemical substance or mixture is consumed as a reactant; incorporated into a formulation, mixture, reaction product, or article; repackaged; or used." This definition can be found in the "IUR Modifications Rule: Development of Definitions for Proposed 40 CFR 711.3" (Ref. 8). EPA also notes that the terms *use, industrial use, consumer use,* and *commercial use* have already been in use for IUR and were previously defined in 40 CFR 710.43 (relocated in this final rule to 40 CFR 711.3).

F. Confidential Business Information

1. *Release of information not validly claimed as CBI.* The Agency received comments about the proposed change to make information claimed as CBI available to the public without further notice to the submitter, in the circumstance that the required substantiation is not submitted with the claim. Opponents of the change are concerned that a reporting error could result in public release of legitimate CBI. They suggested notifying the submitter if further substantiation is needed prior to releasing data to the public. The commenters are in favor of a warning system that would allow submitters time to provide additional substantiation on CBI claims before the Agency determines the data is non-CBI and releases it as public information.

There are three situations during which the Agency will release IUR information claimed as CBI without further notice to the submitter. First is the circumstance that a CBI claim is made for the identity of a chemical substance already listed on the non-confidential portion of the Master Inventory File. Any such CBI claims were invalid under the previous IUR regulations (applicable to the 2006 and earlier submission periods).

The second is the circumstance that a submission lacks the certification required under 40 CFR 711.15(b)(1). 40 CFR 711.15(b)(1) requires a certification stating that the submitted information has been completed in compliance with the requirements of this part and that the confidentiality claims made on the Form U are true and correct. The certification must be signed and dated by the authorized official for the submitter company, and provide that person's name, official title, and e-mail address. Consistent with this regulatory provision, the e-CDRweb tool is designed to entirely block the submission of a Form U lacking an appropriate certification.

The third is the circumstance that a particular CBI claim is not accompanied by upfront substantiation required under 40 CFR 711.30(b), (c), or (d) (*e.g.,* upfront substantiation of processing and use information). The e-CDRweb reporting tool is designed to protect against a company not providing an upfront substantiation. When a CBI claim is made and substantiation is required, the reporting tool will open the substantiation question page. Should the submitter choose not to complete the substantiation at that time, or to only partially complete it, the validation portion of the tool will again alert the submitter to the need for substantiation. The tool also includes warnings that information with unsubstantiated CBI claims will be released without further notice to the submitter. EPA believes these reminders provide sufficient notice to the submitter of the need to substantiate these claims.

2. *Upfront substantiation for processing and use information.* The Agency received comments both for and against the proposed upfront substantiation requirement when processing and use information is claimed as confidential. Commenters opposing the proposed change explained that processing and use information is often considered confidential by customers to protect their competitive positions in the market. Commenters voiced concern that the proposed change will impact their ability to remain competitive or will reduce innovation. These commenters were concerned that the manufacturers of the chemical substances would not correctly identify CBI associated with downstream uses, and that confidentiality agreements between the chemical substance manufacturer and the downstream users would not provide sufficient substantiation for the processing and use information. The Agency believes that the processing and use information in the publicly released IUR reports is sufficiently agglomerated to address these concerns. However, the Agency also recognizes that there are circumstances when the release of information about a particular use could harm the competitive position of the submitter's customer. Therefore, EPA has modified the substantiation question at proposed 40 CFR 711.30(d)(1)(ii) to include information about harm to the submitter's competitive position "or to your customer's competitive position." EPA also notes that under its confidentiality regulations, the Agency normally solicits input from all affected businesses when making a final confidentiality determination respecting information claimed as CBI.

Some commenters stated that providing written explanations for multiple scenarios would be burdensome. Another commenter argued, however, that requiring such explanations will help to limit CBI claims to information that in fact warrants protection as a legitimate trade secret. The commenter asserted that the frequency with which site information was claimed as CBI dropped from 28% to 7% after EPA added an upfront substantiation requirement for that data element, and suggested that the drop represented an elimination of "excessive" trade secrecy claims.

The Agency recognizes that there is a burden associated with providing written explanations. However, based on the significant number of CBI claims for processing and use information in the last information collection, EPA believes that allowing submitters to assert CBI claims merely by checking a box encourages submitters to assert such claims without sufficiently considering whether there is a basis for the claim. While EPA believes that such claims are appropriate under certain circumstances, the Agency wants to ensure that all such claims are carefully considered and only information that is truly confidential, the release of which

would substantially injure the competitive position of the submitter, is claimed as CBI. A substantiation requirement for such claims helps ensure that this consideration takes place.

3. *Prohibition of confidentiality claims for data elements designated as "not known or reasonably ascertainable."* Commenters agreed with prohibiting CBI claims for processing and use information when designated as "not known or reasonably ascertainable." The primary reason cited by supporters was that the proposed change will reduce the potential for unwarranted CBI claims.

G. Administrative Comments

1. *Changes to reporting frequency.* The Agency received comments regarding the proposed change to increase the IUR reporting frequency from every 5 years to every 4 years. Some commenters suggested a change to the reporting frequency would still present a burden to industry and that EPA has not provided adequate justification to warrant or support any increase in the reporting frequency. Other commenters expressed support for the return to the reporting frequency of every 4 years but some felt that to increase the frequency further would be problematic. Additional commenters suggesting even more frequent reporting cycles and these comments are addressed in more detail in the Responses to Comments document (Ref. 12).

In the 2003 IUR Amendments, EPA changed its reporting requirement from every 4 years to every 5 years to lessen the burden associated with complying with the amendments. However, EPA has decided to return to the reporting frequency of every 4 years, in order to better meet Agency needs. EPA has determined that reporting every 5 years is too infrequent, and does not provide enough data to sufficiently cover the Agency's and public's needs. As discussed in Unit III.D.1. of the proposed rule, many chemical substances, even larger volume chemical substances, often experience wide fluctuations in manufacturing volume from year to year. This can result in the production volume of a chemical substance exceeding the threshold for several years, then falling below the threshold during the IUR principal reporting year. A review of the previous reporting under the IUR indicates an approximately 30% change in the chemical substances that are reported from one reporting period to the next. Therefore, the 1-year snapshot of production volume does not provide an accurate picture of the chemical substances in commerce, and may provide an erroneous view of the exposure scenarios associated with a particular chemical substance. In addition, EPA has been criticized for using outdated information, which will be remedied with more frequent reporting. As such, EPA has determined that the value gained through obtaining more current and useful data is essential to fulfilling the Agency's statutory obligations under TSCA, and outweighs the incremental burden to submitters.

2. *Remove superfluous text regarding production volume.* The Agency received comments on the proposal to remove superfluous text associated with reporting production volumes, in particular the ± 10% standard of precision. All commenters opposed changing the current language. Several commenters indicated that reporting accurately to two significant figures is not equivalent to reporting to a precision of ± 10%. One commenter indicated that, if reporting to two significant figures, at higher production volumes there would be a narrower allowable range of variation.

EPA is replacing "provided that the reported figures are within ± 10% of the actual volume" currently found in 40 CFR 710.52(c)(3)(iv) with "This amount must be reported to two significant figures of accuracy." The phrase that was removed is superfluous because any number reported accurately to two significant figures is within 10% of the correct value. EPA recognizes some commenters' concern that this will result in a sliding precision scale between 1% and 10% that is solely based on the reported digits. However, EPA believes that reporting to two significant figures will maintain a balance between data needs for exposure screening and the industry burden associated with data collection. In the 2006 IUR data collection, nearly all manufacturers reported production volumes in greater precision (*i.e.*, more significant figures) than is required for 2012 reporting. Based on years of experience assessing chemical substance risks through programs such as the New Chemicals Program, the Agency believes requiring reporting to two or more significant figures is appropriate to facilitate the Agency's initial exposure screens of chemical substances, and to prioritize and make basic risk management decisions about those chemical substances of greatest concern. Those decisions then can prompt more detailed assessments as necessary.

H. Economic Impact Estimates

1. *General burden comments.* The Agency received a number of comments expressing concerns about the Economic Analysis (Ref. 14); the majority of which suggest that the Agency has significantly underestimated the effort required to collect, organize, verify and report IUR data. Commenters disagreed with EPA's burden estimates for several proposed modifications to the rule, including the retroactive reporting of production volumes, reporting on imported mixtures, mandatory electronic submission, the lowering of the threshold for downstream processing and use information, the change in the standard of reporting from "readily obtainable" to "known to or reasonably ascertainable by," and the change in the reporting cycle from every 5 to every 4 years. Several commenters asserted that the reporting burden will increase to between two and six times the burden for reporting in 2006. However, few commenters provided specific reasons for why they believe that the Agency's estimates were low, and no commenters provided any analytical basis for revising EPA's estimates or substantiated their alternative estimates. The Agency has used the best available data to estimate the burden associated with the modifications to the IUR rule, and disagrees with the commenters. The burden estimates presented in the economic analysis are reasonable estimates for the average IUR submitter.

a. *Identification of affected entities.* In general, commenters stated that the Economic Analysis (Ref. 14) does not identify all affected entities, and EPA has inaccurately assumed that the proposed rule will affect only chemical substance manufacturers. Another commenter noted that a wide range of industries manufacture byproducts, so to accurately estimate the burden of the proposed rule, EPA must identify all affected industries and facilities. The commenter further stated that byproducts sent for recycling are new chemical substances reportable under the IUR rule and the Economic Analysis fails to identify these manufacturers.

The Economic Analysis assumes that all companies manufacturing (including importing) chemical substances annually in amounts of 25,000 lb or greater that are listed on the TSCA Inventory will report under this rule. Chemical substance users and processors who may manufacture a byproduct chemical substance for a commercial purpose, *e.g.*, utilities, paper manufacturers, primary metal manufacturers, and semiconductor and other electronic component

manufacturers (NAICS codes 22, 322, 331, and 3344), are considered to be chemical substance manufacturers for the purposes of the IUR rule. Sites that manufactured a byproduct in a volume above the 25,000 lb threshold during the 2006 submission period were required to report under IUR, and therefore are included in the 2006 baseline estimates.

b. *Total industry compliance determination burden.* Commenters made a number of specific points regarding the compliance determination burden. According to one commenter, provisions requiring reporting of more data for many chemical substances, replacing NAICS codes with EU IS codes, and requiring upfront substantiation for CBI claims for Part III, Form U, information will contribute to the increased effort required to report.

EPA disagrees that the Economic Analysis underestimates the reporting costs and burdens of this final rule amendments as asserted by the commenters. EPA does agree that many of the amended rule requirements, including provisions requiring reporting of more data for many chemical substances, replacing NAICS codes with Industrial Sector codes, and requiring upfront substantiation for CBI claims for Part III, Form U, information, will cause an increase in burden and cost. While EPA does state throughout the Economic Analysis that the burdens and costs may be overestimated, the analysis also says that they may be underestimated. The statements regarding limitations of the study serve to make the analysis more transparent. EPA does not have the ability to take into account the effects of individual company circumstances concerning downsizing, growth, mergers and acquisitions, on estimates of reporting burden and cost, as mentioned by one commenter.

Several commenters asserted that EPA underestimated the burden associated with IUR compliance determination by estimating the burden on a per-report basis. According to the comments, this methodology does not capture the burden associated with tracking, screening, and keeping records for chemical substances that ultimately are not required to be reported to IUR because they are manufactured or imported in quantities below the reporting threshold.

Compliance determination occurs on a per-site basis and is based on a manufacturer (including importer) determining that it manufactures at least one chemical substance at or above the threshold, thus necessitating that the site complete and submit a Form U. The Economic Analysis assumes all sites that report to the IUR incur the same average cost for compliance determination regardless of the number of chemical substances reported. EPA expects that it is standard company practice to track and maintain records of production volumes for all chemical substances manufactured at a given site. Therefore, EPA expects that the burden associated with compliance determination should not be substantial. The commenters appear to have misinterpreted EPA's compliance determination burden to include the burden of actually reporting for the chemical substances subject to the IUR, but this is not the case. See section 4.2.2 of the Economic Analysis (Ref. 14) for further clarification.

Finally, EPA notes that the IUR does not require submitters to retain documentation showing that particular chemical substances did not need to be included in a given year's report. In addition, once a submitter has made a compliance determination that it has reporting obligations under the IUR, it can rely on production volume information already reasonably available, in the ordinary course of business, to determine that particular chemical substances do not need to be reported under the IUR. For this reason, EPA believes it is unreasonable to attribute to the rule the costs of tracking, screening, and keeping records of the various production volumes of chemical substances that ultimately are not required to be reported to IUR because they are below the reporting threshold.

c. *Underlying assumptions and data: Baseline costs.* Commenters questioned the baseline number of reports EPA used in calculating baseline costs. One commenter questioned whether EPA's estimate included inorganic substances. Another commenter questioned whether EPA has adjusted the baseline estimates to account for new manufacturing facilities that never previously reported under the IUR rule, the elimination the 300,000 lb threshold for processing and use data, and the change in the method of determining the eligibility to report.

The 2006 IUR submission data provide the best estimate for the number of reports that would be submitted under the baseline scenario. The baseline scenario in the Economic Analysis assumes no changes have been made to the 2006 reporting requirements. This cost is used as a basis on which to calculate the incremental cost of the rule. Therefore, in the baseline, the number of reports should not be adjusted to account for any proposed modifications. The Economic Analysis does estimate the additional number of Part III of Form U reports that will be submitted as a result of this final rule, including the elimination of the 300,000 lb threshold (see section 4.4.4 of the Economic Analysis (Ref. 14)), as well as the additional number of reports submitted as a result of the change in the method of determining the eligibility to report (see section 4.4.3 of the Economic Analysis (Ref. 14)). In addition, the Economic Analysis accounts for rule familiarization costs for any new companies submitting data (see section 4.2.2 of the Economic Analysis (Ref. 14)). The 2006 data do include reports for inorganic chemical substances, because while inorganic chemical substance manufacturers were exempt from submitting downstream processing and use information in the 2006 submission period, they were required to submit Parts I and II of Form U, and therefore are included in the baseline number of reports.

I. Request for Comment on Additional Issues

EPA requested comment on several additional topics in Unit V. of the proposed rule (Ref. 1, p. 49676). The comment summaries and responses to these issues are contained in the Responses to Comments document (Ref. 12).

VI. References

As indicated under **ADDRESSES**, a docket has been established for this rulemaking under docket ID number EPA–HQ–OPPT–2009–0187. The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA in developing this final rule, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. TSCA Inventory Update Reporting Modifications; Proposed Rule. **Federal Register** (75 FR 49656, August 13, 2010) (FRL–8833–5).
2. EPA. Inventory Reporting Regulations; Final Rule. **Federal Register** (42 FR 64572, December 23, 1977) (FRL–817–1).
3. EPA. Partial Updating of TSCA Inventory Data Base; Production and Site Reports; Final Rule. **Federal Register** (51 FR 21438, June 12, 1986) (FRL–2973–3).
4. EPA. TSCA Inventory Update Rule Amendments; Final Rule. **Federal Register** (68 FR 848, January 7, 2003) (FRL–6767–4).

5. EPA. OPPT. Enhancing EPA's Chemical Management Program. Available on-line at *http://www.epa.gov/oppt/existingchemicals/pubs/enhanchems.html.*
6. EPA. TSCA Inventory Update Reporting Modifications; Submission Period Suspension; Final Rule. **Federal Register** (76 FR 27271, May 11, 2011) (FRL–8874–2).
7. EPA. Instructions for the 2012 TSCA Chemical Data Reporting. July 2011. Also available on-line at *http://www.epa.gov/cdr.*
8. EPA. OPPT. IUR Modifications Rule: Development of Definitions for Proposed 40 CFR 711.3. July 8, 2010.
9. EPA. TSCA Inventory Update Reporting Revisions; Final Rule. **Federal Register** (70 FR 75059, December 19, 2005) (FRL–7743–9).
10. EPA. OPPT. Electronic Signature Agreement. August 2009.
11. EPA/Environment Canada/Health Canada, Overview of Harmonized U.S.-Canada Industrial Function and Consumer and Commercial Product Codes for Chemical Inventory Reporting. November 2009.
12. EPA. OPPT. Summary of EPA's Responses to Public Comments Submitted in Response to Proposed TSCA Inventory Update Reporting Modifications Rule.
13. EPA. OPPT. 2006 IUR Database Statistics for the IUR Modifications Rule. December 17, 2008.
14. EPA. OPPT. Economics, Exposure and Technology Division (EETD). Economic Analysis for the Final Inventory Update Reporting (IUR) Modifications Rule. July 2011.
15. EPA. Toxic Chemical Release Inventory Reporting Forms and Instructions. October 2009. Available on-line at *http://www.epa.gov/tri/report/rfi/ry2009rfi121709.pdf.*
16. EPA. OPPT. EETD. Inventory Update Reporting (IUR) Technical Support Document—Replacement of 5-digit NAICS Codes with Industrial Sector (IS) Codes. October 2009.
17. Environmental Defense Fund, Letter to Docket ID Number EPA–HQ–OPPT–2009–0187 (on behalf of 32 organizations), from Richard Denison, PhD, October 12, 2010.
18. Proposal for Priority Setting for Existing Substances on the Domestic Substances List under the Canadian Environmental Protection Act, 1999. Greatest Potential for Human Exposure. Canada, 2003.
19. EPA. OPPT. Screening-Level Hazard Characterization and Prioritization Document. March 2009. Available on-line at *http://www.epa.gov/chemrtk/hpvis/rbp/Butenedioic%20Acid%20Dialkyl%20Esters_HBP_March%202009.pdf.*
20. NOVA Chemicals, Letter to Docket ID No. EPA–HQ–OPPT–2009–0187, from Linda Santry. October 7, 2010.
21. EPA. OPPT. Initial Risk-Based Prioritization of High Production Volume (HPV) Chemicals. April 2009. Available on-line at *http://www.epa.gov/chemrtk/hpvis/rbp/Category_Chlorobenzenes_Web_April%202009.pdf.*
22. European Commission. REACH. January 2011. Available on-line at *http://ec.europa.eu/environment/chemicals/reach/reach_intro.htm.*
23. H.R. Rep. 94–1679, 94th Congress, 2d Session (1976), reprinted in Environmental and Natural Resources Policy Division of the Library of Congress, 94th Congress, 2d Session, A Legislative History of the Toxic Substances Control Act; (Committee Print 1976) (Legislative History, pp. 667–721).
24. EPA. Recordkeeping and Reporting Requirements; Recodification; Final Rule. **Federal Register** (48 FR 23420, May 25, 1983) (FRL–2370–70).
25. EPA. Premanufacture Notification; Premanufacture Notice Requirements and Review Procedures; Final Rule. **Federal Register** (48 FR 21722, May 13, 1983) (FRL 2998–5).
26. EPA. Comprehensive Assessment Information Rule; Final Rule. **Federal Register** (53 FR 51698, December 22, 1988) (FRL–3368–1).
27. Prenotice Communication Letter from Mary E. Cushmac, EPA. July 29, 1991.
28. Letter from Susan Sharkey, EPA, to Robert P. Strieter, The Aluminum Association. October 24, 2006.
29. Letter from Charles M. Auer, EPA, to Fern Abrams, IPC. August 27, 2008.
30. EPA. OPPT. Q&A Document: Recycling and the TSCA Chemical Substance Inventory—Premanufacture Notification and Chemical Data Reporting Requirements. May 2011.
31. EPA. Table of Comparison of 2012 CDR v 2006 IUR Definitions. February 9, 2011.
32. EPA. Agency Information Collection Activities; Final Collection; Partial Update of the TSCA Section 8(b) Inventory Data Base, Production and Site Reports; EPA ICR No. 1884.05, OMB Control No. 2070–0162.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action has been designated a "significant regulatory action" by the Office of Management and Budget (OMB). Accordingly, EPA submitted this action to OMB for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

In addition, EPA has prepared an economic analysis of the potential impacts associated with this action. A copy of this Economic Analysis (Ref. 14) is available in the docket and is briefly summarized in this unit. The Agency, in promulgating this final rule, is required under TSCA to consider the potential costs and benefits associated with IUR. The analysis was therefore used by the decisionmakers to help in the selection of the final rule requirements presented in this document.

The amendments in this final rule affect the number of reports submitted during a submission period, the burden to prepare a report, and the reporting frequency. EPA estimates that the combined impact of all the amendments will increase the total burden and cost to industry associated with IUR reporting.

In its Economic Analysis, EPA estimated industry cost and burden on a per-report and a per-site basis and at the industry level. Industry cost and burden are incurred by performing activities to comply with the amendments, including compliance determination, rule familiarization, preparation and submission of reports, and recordkeeping.

On a per-report basis, EPA estimated incremental increases of 0.47 hours and $118 for a site to complete a partial report for 1 chemical substance and 13.57 hours and $1,176 to complete a full report for 1 chemical substance, in the first reporting cycle after the effective date of the final rule amendments. A partial report includes Parts I and II of Form U. A full report includes Parts I, II, and III of Form U. For future reporting cycles, EPA estimated incremental increases of 2.26 hours and $212 for a site to complete a partial report for 1 chemical substance and 11.96 hours and $1,012 to complete a full report for 1 chemical substance.

As a result of the amendments, EPA estimates that the average site will submit approximately 0.90 and 2.01 fewer partial reports in the first reporting cycle and future reporting cycles, respectively. An increase in full reports per site of 0.89 in the first reporting period and 2.88 in future reporting periods is expected. For the average site, this will increase the burden by 121 hours during the first reporting cycle and 249 hours for all subsequent reporting cycles. EPA estimates that the average site will incur a net cost increase of $9,000 during the first reporting cycle and $16,551 during all future reporting cycles.

At the industry level for all sites submitting a Form U, EPA estimates a net total burden increase of 0.50 million hours in the first reporting cycle, and 1.14 million hours for all subsequent reporting cycles. EPA estimates a net cost increase of $36.76 million in the first reporting cycle of the final rule, and $75.12 million in all subsequent reporting cycles.

EPA estimates that the Agency will experience a reduction in both burden and cost to administer the IUR rule as a result of the amendments. Specifically, EPA expects to experience a net burden reduction of 940 hours in the first reporting cycle and 1,678 in subsequent reporting cycles. The Agency estimates it will experience a net savings of approximately $68,000 during the first reporting cycle and $175,000 in subsequent reporting cycles. This information will be reflected in the ICR that is submitted every 3 years to OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*

EPA believes that this final rule represents an appropriate balance between the burden placed on industry to provide information and the Agency's need for that information to fill its statutory obligations and fulfill its mission under TSCA and, as part of that mission, to provide information needed by other agencies (OSHA, NIOSH, CPSC, etc.).

B. Paperwork Reduction Act

The information collection requirements in 40 CFR part 710 related to the submission of Form Us are already approved by OMB under PRA. That ICR has been assigned EPA ICR No. 1884 and OMB control no. 2070–0162. Because this final rule involves new or revised information collection activities that require additional OMB approval, EPA has prepared an addendum to the currently approved ICR (Ref. 32). An agency may not conduct or sponsor, and a person is not required to respond to an information collection request subject to PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and included on any related collection instrument (*e.g.*, on the form or survey).

Under PRA, the term "burden" is interpreted as the total time, effort, or financial resources expended by people to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed by regulated entities to review instructions and to develop, acquire, install, and use technology and systems to collect, validate, verify, and disclose information. Time taken to adjust existing ways to comply with any previously applicable instructions and requirements and to train personnel to respond to the information collection task is also included. In this analysis, total industry burden hours represent the sum of time spent on reporting and on other administrative activities. Industry will spend time on the following activities associated with the IUR rule: Compliance determination, rule familiarization, preparation and submission of reports, and recordkeeping.

As presented in the Economic Analysis (Ref. 14) and the addendum ICR (Ref. 32), EPA estimates that the final rule would generate a total incremental industry burden of 0.50 million hours in the first reporting cycle. The burden for a site to complete a full IUR report for one chemical substance in the first reporting cycle is estimated to be 136.57 hours, which is an incremental burden increase of 13.57 hours over the current estimated burden. The burden for a site to complete a partial IUR report for one chemical substance in the first reporting cycle is estimated to be 53.55 hours, which is an incremental burden increase of 0.47 hours over the current estimated burden. For future reporting cycles, EPA estimates that the final rule would create a total incremental industry burden of 1.14 million hours. The burden to complete a full report is estimated to be 94.01 hours, which is an incremental increase of 11.94 hours over the current estimated future burden. The burden for a partial report is estimated to be 28.38 hours, which is an incremental increase of 2.24 hours over the current estimate.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant adverse economic impact on a substantial number of small entities. The Agency's basis is briefly summarized here and is detailed in the Economic Analysis (Ref. 14).

Under RFA, small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this final rule on small entities, small entity is defined as:

1. A small business, as defined by the SBA's regulations at 13 CFR 121.201. The SBA definitions typically are based upon either a sales or an employment level, depending on the nature of the industry. Companies engaged in chemical substance manufacturing (NAICS code 325) or petroleum refining (NAICS code 324110) are the most likely to report under the IUR rule. These employee size standards range from 500 employees to 1,500 employees for NAICS codes 325 and 324110.

2. A small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Since the regulated community does not include small governmental jurisdictions or small not-for-profit organizations, the analysis focuses on small businesses.

The existing IUR rule, at 40 CFR 710.49, generally exempts from reporting small businesses, defined at 40 CFR 704.3 as entities with annual sales of less than $40 million and less than 100,000 lb production of any given chemical substance at a site; or annual sales of less than $4 million. This exemption is maintained in this final rule. A small business would be required to report under the final rule, however, if it produces any chemical substance that is the subject of a regulation proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or that is the subject of an order under TSCA section 5(e), or that is the subject of relief that has been granted pursuant to a civil action under TSCA section 5 or 7 (40 CFR 711.9 and TSCA section 8(a)(3)(A)(ii)). A small business may also report voluntarily.

EPA analyzed potential small business impacts from this final rule using both the SBA employee size standards and the TSCA sales-based definition of small business. EPA estimates that 466 small firms potentially would be affected by this final rule using the employment-based definition, and 280 small firms potentially would be affected using the sales-based definition. Based on costs annualized over a 4-year period and average sales data for the parent companies, EPA estimated that the cost-to-sales ratio of the final rule would be less than 0.1% for an average small company subject to the rule. For a company to have a cost-to-sales ratio larger than 1%, company sales would have to be less than $0.81 million. Because the small businesses affected by the final rule have average sales of more than $412.7 million under the employment-based definition, and $116 million under the sales-based definition, small entities will not be affected by the amendments to the IUR rule at a cost-to-sales ratio of greater than 1% (Ref. 14).

D. Unfunded Mandates Reform Act

This action does not contain any Federal mandates for State, local, or Tribal governments or the private sector under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531–1538. EPA has determined that this regulatory action

will not result in annual expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or for the private sector. The costs associated with this action are briefly described in Unit V.A., and is contained in the Economic Analysis (Ref. 14).

Based on EPA's past experience, State, local, and Tribal governments have not been affected by this reporting requirement, and EPA does not have any reason to believe that any State, local, or Tribal government will be affected by this final rule. As such, EPA has determined that this final rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments. Accordingly, this final rule is not subject to the requirements of sections 202, 203, or 205 of UMRA.

E. Executive Order 13132

Pursuant to Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), EPA has determined that this final rule does not have federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. This final rule simply amends the IUR rule in several ways to provide information to better address Agency and public information needs, improve the usability and reliability of the reported data, and ensure that data are available in a timely manner. Because EPA has no information to indicate that any State or local government manufactures or processes the chemical substances covered by this action, the final rule does not apply directly to States and localities and will not affect State and local governments. Thus, Executive Order 13132 does not apply to the final rule.

F. Executive Order 13175

As required by Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), EPA has determined that this final rule does not have Tribal implications because it will not have any effect on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in the Order. Thus, Executive Order 13175 does not apply to this final rule.

G. Executive Order 13045

EPA interprets Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of Executive Order 13045 has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Nevertheless, the information obtained by the reporting required by this final rule will be used to inform the Agency's decisionmaking process regarding chemical substances to which children may be disproportionately exposed. This information will also assist the Agency and others in determining whether the chemical substances in this final rule present potential risks, allowing the Agency and others to take appropriate action to investigate and mitigate those risks.

H. Executive Order 13211

This action is not a "significant energy action" as defined in Executive Order 13211, entitled "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy as described in the Executive Order.

I. National Technology Transfer and Advancement Act

Since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

The final rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities that require special consideration by the Agency under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994). The Agency believes that the information collected under this final rule will assist EPA and others in determining the potential hazards and risks associated with the chemical substances covered by the final rule. Because the IUR rule is an information collection requirement, the information that will become available through the rule will enable the Agency to target educational, regulatory, or enforcement activities towards industries or chemical substances that pose the greatest risks and/or to target programs for geographic areas that are at the highest risk. Thus, the information to be gathered under the final rule will help EPA make decisions that will benefit potentially at-risk communities, some of which may be disadvantaged.

The final rule is directed at manufacturers (including importers) of chemical substances. All consumers of these chemical products and all workers who come into contact with these chemical substances could benefit if data regarding the chemical substances' health and environmental effects were developed. Therefore, it does not appear that the costs and the benefits of the final rule will be disproportionately distributed across different geographic regions or among different categories of individuals.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Parts 704, 710, and 711

Environmental protection, Chemicals, Confidential Business Information (CBI), Hazardous materials, Importer, Manufacturer, Reporting and recordkeeping requirements.

Dated: August 1, 2011.

Stephen A. Owens,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR chapter I is amended as follows:

PART 704—[AMENDED]

■ 1. The authority citation for part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 14;704.3 [Amended]

■ 2. In § 14;704.3, remove the phrase "(as defined in 19 CFR 1.11)" in

paragraph (1)(ii) of the definition *importer*.

PART 710—COMPILATION OF THE TSCA CHEMICAL SUBSTANCE INVENTORY

■ 3. The authority citation for part 710 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

■ 4. Revise the heading for part 710 to read as set forth above.
■ 5. Remove the heading "Subpart A—General Provisions."
■ 6. Revise paragraph (b) of § 14;710.1 to read as follows:

§ 14;710.1 Scope and compliance.

* * * * *

(b) This part applies to the activities associated with the compilation of the TSCA Chemical Substance Inventory (TSCA Inventory) and the update of information on a subset of the chemical substances included on the TSCA Inventory.

* * * * *

■ 7. Section 710.3 is amended as follows:
■ i. Revise the introductory text.
■ ii. Remove the phrase "(as defined in 19 CFR 1.11)" in paragraph (2) of the definition *importer*.
■ iii. Remove the definition *non-isolated intermediate*.

The revision reads as follows:

§ 14;710.3 Definitions.

For purposes of this part:

* * * * *

Subpart B (§§ 14;710.23–710.39) [Removed]

■ 8. Remove subpart B, consisting of §§ 14;710.23–710.39.

Subpart C (§§ 14;710.43–710.59) [Removed]

■ 9. Remove subpart C, consisting of §§ 14;710.43–710.59.
■ 10. Add new part 711 to subchapter R to read as follows:

PART 711—TSCA CHEMICAL DATA REPORTING REQUIREMENTS

Sec.

Authority: 15 U.S.C. 2607(a).

§ 711.1 Scope and compliance.

(a) This part specifies reporting and recordkeeping procedures under section 8(a) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2607(a)) for certain manufacturers (including importers) of chemical substances. Section 8(a) of TSCA authorizes the EPA Administrator to require reporting of information necessary for administration of TSCA, including issuing regulations for the purpose of compiling and keeping current the TSCA Chemical Substance Inventory (TSCA Inventory) as required by TSCA section 8(b). In accordance with TSCA section 8(b), EPA amends the TSCA Inventory to include new chemical substances manufactured (including imported) in the United States and reported under TSCA section 5(a)(1). EPA also revises the categories of chemical substances and makes other amendments as appropriate.

(b) This part applies to the activities associated with the periodic update of information on a subset of the chemical substances included on the TSCA Inventory.

(c) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under this part. In addition, TSCA section 15(3) makes it unlawful for any person to fail to keep, and permit access to, records required by this part. Section 16 of TSCA provides that any person who violates a provision of TSCA section 15 is liable to the United States for a civil penalty and may be criminally prosecuted. Pursuant to TSCA section 17, the Federal Government may seek judicial relief to compel submission of TSCA section 8(a) information and to otherwise restrain any violation of TSCA section 15. (EPA does not intend to concentrate its enforcement efforts on insignificant clerical errors in reporting.)

(d) Each person who reports under this part must maintain records that document information reported under this part and, in accordance with TSCA, permit access to, and the copying of, such records by EPA officials.

§ 711.3 Definitions.

The definitions in this section and the definitions in TSCA section 3 apply to this part. In addition, the definitions in 40 CFR 704.3 also apply to this part, except the definitions *manufacture* and *manufacturer* in 40 CFR 704.3.

CDX or *Central Data Exchange* means EPA's centralized electronic document receiving system, or its successors.

Commercial use means the use of a chemical substance or a mixture containing a chemical substance (including as part of an article) in a commercial enterprise providing saleable goods or services.

Consumer use means the use of a chemical substance or a mixture containing a chemical substance (including as part of an article) when sold to or made available to consumers for their use.

e-CDRweb means the electronic, web-based tool provided by EPA for the completion and submission of the CDR data.

Industrial function means the intended physical or chemical characteristic for which a chemical substance or mixture is consumed as a reactant; incorporated into a formulation, mixture, reaction product, or article; repackaged; or used.

Industrial use means use at a site at which one or more chemical substances or mixtures are manufactured (including imported) or processed.

Intended for use by children means the chemical substance or mixture is used in or on a product that is specifically intended for use by children age 14 or younger. A chemical substance or mixture is intended for use by children when the submitter answers "yes" to at least one of the following questions for the product into which the submitter's chemical substance or mixture is incorporated:

(1) Is the product commonly recognized (i.e., by a reasonable person) as being intended for children age 14 or younger?

(2) Does the manufacturer of the product state through product labeling or other written materials that the product is intended for or will be used by children age 14 or younger?

(3) Is the advertising, promotion, or marketing of the product aimed at children age 14 or younger?

Manufacture means to manufacture, produce, or import, for commercial purposes. Manufacture includes the extraction, for commercial purposes, of a component chemical substance from a previously existing chemical substance or complex combination of chemical substances. When a chemical substance, manufactured other than by import, is:

(1) Produced exclusively for another person who contracts for such production, and

(2) That other person specifies the identity of the chemical substance and

controls the total amount produced and the basic technology for the plant process, then that chemical substance is co-manufactured by the producing manufacturer and the person contracting for such production.

Manufacturer means a person who manufactures a chemical substance.

Master Inventory File means EPA's comprehensive list of chemical substances which constitutes the TSCA Inventory compiled under TSCA section 8(b). It includes chemical substances reported under 40 CFR part 710 and substances reported under 40 CFR part 720 for which a Notice of Commencement of Manufacture or Import has been received under 40 CFR 720.120.

Principal reporting year means the latest complete calendar year preceding the submission period.

Reasonably likely to be exposed means an exposure to a chemical substance which, under foreseeable conditions of manufacture (including import), processing, distribution in commerce, or use of the chemical substance, is more likely to occur than not to occur. Such exposures would normally include, but would not be limited to, activities such as charging reactor vessels, drumming, bulk loading, cleaning equipment, maintenance operations, materials handling and transfers, and analytical operations. Covered exposures include exposures through any route of entry (inhalation, ingestion, skin contact, absorption, etc.), but excludes accidental or theoretical exposures.

Repackaging means the physical transfer of a chemical substance or mixture, as is, from one container to another container or containers in preparation for distribution of the chemical substance or mixture in commerce.

Reportable chemical substance means a chemical substance described in § 14;711.5.

Site means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. More than one manufacturing plant may be located on a single site.

(1) For chemical substances manufactured under contract, i.e., by a toll manufacturer, the site is the location where the chemical substance is physically manufactured.

(2) The site for an importer who imports a chemical substance described in § 14;711.5 is the U.S. site of the operating unit within the person's organization that is directly responsible for importing the chemical substance. The import site, in some cases, may be the organization's headquarters in the United States. If there is no such operating unit or headquarters in the United States, the site address for the importer is the U.S. address of an agent acting on behalf of the importer who is authorized to accept service of process for the importer.

(3) For portable manufacturing units sent to different locations from a single distribution center, the distribution center shall be considered the site.

Site-limited means a chemical substance is manufactured and processed only within a site and is not distributed for commercial purposes as a chemical substance or as part of a mixture or article outside the site. Imported chemical substances are never site-limited. Although a site-limited chemical substance is not distributed for commercial purposes outside the site at which it is manufactured and processed, the chemical substance is considered to have been manufactured and processed for commercial purposes.

Submission period means the period in which the manufacturing, processing, and use data are submitted to EPA.

U.S. parent company means the highest level company, located in the United States, that directly owns at least 50% of the voting stock of the manufacturer.

Use means any utilization of a chemical substance or mixture that is not otherwise covered by the terms manufacture or process. Relabeling or redistributing a container holding a chemical substance or mixture where no repackaging of the chemical substance or mixture occurs does not constitute use or processing of the chemical substance or mixture.

§ 711.5 Chemical substances for which information must be reported.

Any chemical substance that is in the Master Inventory File at the beginning of a submission period described in § 14;711.20, unless the chemical substance is specifically excluded by § 14;711.6.

§ 711.6 Chemical substances for which information is not required.

The following groups or categories of chemical substances are exempted from some or all of the reporting requirements of this part, with the following exception: A chemical substance described in paragraph (a)(1), (a)(2), or (a)(4), or (b) of this section is not exempted from any of the reporting requirements of this part if that chemical substance is the subject of a rule proposed or promulgated under TSCA section 4, 5(a)(2), 5(b)(4), or 6, or is the subject of an enforceable consent agreement (ECA) developed under the procedures of 40 CFR part 790, or is the subject of an order issued under TSCA section 5(e) or 5(f), or is the subject of relief that has been granted under a civil action under TSCA section 5 or 7.

(a) *Full exemptions.* The following categories of chemical substances are exempted from the reporting requirements of this part.

(1) *Polymers*—(i) Any chemical substance described with the word fragments "*polym," "*alkyd," or "*oxylated" in the Chemical Abstracts (CA) Index Name in the Master Inventory File, where the asterisk (*) in the listed word fragments indicates that any sets of characters may precede, or follow, the character string defined.

(ii) Any chemical substance that is identified in the Master Inventory File as an enzyme, lignin, a polysaccharide (cellulose, gum, starch), a protein (albumin, casein, gelatin, gluten, hemoglobin), rubber, siloxane and silicone, or silsesquioxane.

(iii) This exclusion does not apply to a polymeric substance that has been depolymerized, hydrolyzed, or otherwise chemically modified, except in cases where the intended product of this reaction is totally polymeric in structure.

(2) *Microorganisms.* Any combination of chemical substances that is a living organism, and that meets the definition of *microorganism* at 40 CFR 725.3. Any chemical substance produced from a living microorganism is reportable under this part unless otherwise excluded.

(3) *Naturally occurring chemical substances.* Any naturally occurring chemical substance, as described in 40 CFR 710.4(b). The applicability of this exclusion is determined in each case by the specific activities of the person who manufactures the chemical substance in question. Some chemical substances can be manufactured both as described in 40 CFR 710.4(b) and by means other than those described in 40 CFR 710.4(b). If a person described in § 14;711.8 manufactures a chemical substance by means other than those described in 40 CFR 710.4(b), the person must report regardless of whether the chemical substance also could have been produced as described in 40 CFR 710.4(b). Any chemical substance that is produced from such a naturally occurring chemical substance described in 40 CFR 710.4(b) is reportable unless otherwise excluded.

(4) *Certain forms of natural gas and water.* Chemical substances with the following Chemical Abstracts Service Registry Number (CASRN): CASRN 7732–18–5, water; CASRN 8006–14–2, natural gas; CASRN 8006–61–9,

gasoline, natural; CASRN 64741–48–6, natural gas (petroleum), raw liq. mix; CASRN 68410–63–9, natural gas, dried; CASRN 68425–31–0, gasoline (natural gas), natural; and CASRN 68919–39–1, natural gas condensates.

(b) *Partial exemptions.* The following groups of chemical substances are partially exempted from the reporting requirements of this part (*i.e.*, the information described in § 14;711.15(b)(4) need not be reported for these chemical substances). Such chemical substances are not excluded from the other reporting requirements under this part.

(1) *Petroleum process streams.* EPA has designated the chemical substances listed in Table 1 of this paragraph by CASRN, as partially exempt from reporting under the IUR.

TABLE 1—CASRNS OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING

CASRN	Product
8002–05–9	Petroleum.
8002–74–2	Paraffin waxes and hydrocarbon waxes.
8006–20–0	Fuel gases, low and medium B.T.U.
8008–20–6	Kerosine (petroleum).
8009–03–8	Petrolatum.
8012–95–1	Paraffin oils.
8030–30–6	Naphtha.
8032–32–4	Ligroine.
8042–47–5	White mineral oil (petroleum).
8052–41–3	Stoddard solvent.
8052–42–4	Asphalt.
61789–60–4	Pitch.
63231–60–7	Paraffin waxes and hydrocarbon waxes, microcryst.
64741–41–9	Naphtha (petroleum), heavy straight-run.
64741–42–0	Naphtha (petroleum), full-range straight-run.
64741–43–1	Gas oils (petroleum), straight-run.
64741–44–2	Distillates (petroleum), straight-run middle.
64741–45–3	Residues (petroleum), atm. tower.
64741–46–4	Naphtha (petroleum), light straight-run.
64741–47–5	Natural gas condensates (petroleum).
64741–49–7	Condensates (petroleum), vacuum tower.
64741–50–0	Distillates (petroleum), light paraffinic.
64741–51–1	Distillates (petroleum), heavy paraffinic.
64741–52–2	Distillates (petroleum), light naphthenic.
64741–53–3	Distillates (petroleum), heavy naphthenic.
64741–54–4	Naphtha (petroleum), heavy catalytic cracked.
64741–55–5	Naphtha (petroleum), light catalytic cracked.
64741–56–6	Residues (petroleum), vacuum.
64741–57–7	Gas oils (petroleum), heavy vacuum.
64741–58–8	Gas oils (petroleum), light vacuum.
64741–59–9	Distillates (petroleum), light catalytic cracked.
64741–60–2	Distillates (petroleum), intermediate catalytic cracked.
64741–61–3	Distillates (petroleum), heavy catalytic cracked.
64741–62–4	Clarified oils (petroleum), catalytic cracked.
64741–63–5	Naphtha (petroleum), light catalytic reformed.
64741–64–6	Naphtha (petroleum), full-range alkylate.
64741–65–7	Naphtha (petroleum), heavy alkylate.
64741–66–8	Naphtha (petroleum), light alkylate.
64741–67–9	Residues (petroleum), catalytic reformer fractionator.
64741–68–0	Naphtha (petroleum), heavy catalytic reformed.
64741–69–1	Naphtha (petroleum), light hydrocracked.
64741–70–4	Naphtha (petroleum), isomerization.
64741–73–7	Distillates (petroleum), alkylate.
64741–74–8	Naphtha (petroleum), light thermal cracked.
64741–75–9	Residues (petroleum), hydrocracked.
64741–76–0	Distillates (petroleum), heavy hydrocracked.
64741–77–1	Distillates (petroleum), light hydrocracked.
64741–78–2	Naphtha (petroleum), heavy hydrocracked.
64741–79–3	Coke (petroleum).
64741–80–6	Residues (petroleum), thermal cracked.
64741–81–7	Distillates (petroleum), heavy thermal cracked.
64741–82–8	Distillates (petroleum), light thermal cracked.
64741–83–9	Naphtha (petroleum), heavy thermal cracked.
64741–84–0	Naphtha (petroleum), solvent-refined light.
64741–85–1	Raffinates (petroleum), sorption process.
64741–86–2	Distillates (petroleum), sweetened middle.
64741–87–3	Naphtha (petroleum), sweetened.
64741–88–4	Distillates (petroleum), solvent-refined heavy paraffinic.
64741–89–5	Distillates (petroleum), solvent-refined light paraffinic.
64741–90–8	Gas oils (petroleum), solvent-refined.
64741–91–9	Distillates (petroleum), solvent-refined middle.

TABLE 1—CASRNS OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
64741–92–0	Naphtha (petroleum), solvent-refined heavy.
64741–95–3	Residual oils (petroleum), solvent deasphalted.
64741–96–4	Distillates (petroleum), solvent-refined heavy naphthenic.
64741–97–5	Distillates (petroleum), solvent-refined light naphthenic.
64741–98–6	Extracts (petroleum), heavy naphtha solvent.
64741–99–7	Extracts (petroleum), light naphtha solvent.
64742–01–4	Residual oils (petroleum), solvent-refined.
64742–03–6	Extracts (petroleum), light naphthenic distillate solvent.
64742–04–7	Extracts (petroleum), heavy paraffinic distillate solvent.
64742–05–8	Extracts (petroleum), light paraffinic distillate solvent.
64742–06–9	Extracts (petroleum), middle distillate solvent.
64742–07–0	Raffinates (petroleum), residual oil decarbonization.
64742–08–1	Raffinates (petroleum), heavy naphthenic distillate decarbonization.
64742–09–2	Raffinates (petroleum), heavy paraffinic distillate decarbonization.
64742–10–5	Extracts (petroleum), residual oil solvent.
64742–11–6	Extracts (petroleum), heavy naphthenic distillate solvent.
64742–12–7	Gas oils (petroleum), acid-treated.
64742–13–8	Distillates (petroleum), acid-treated middle.
64742–14–9	Distillates (petroleum), acid-treated light.
64742–15–0	Naphtha (petroleum), acid-treated.
64742–16–1	Petroleum resins.
64742–18–3	Distillates (petroleum), acid-treated heavy naphthenic.
64742–19–4	Distillates (petroleum), acid-treated light naphthenic.
64742–20–7	Distillates (petroleum), acid-treated heavy paraffinic.
64742–21–8	Distillates (petroleum), acid-treated light paraffinic.
64742–22–9	Naphtha (petroleum), chemically neutralized heavy.
64742–23–0	Naphtha (petroleum), chemically neutralized light.
64742–24–1	Sludges (petroleum), acid.
64742–25–2	Lubricating oils (petroleum), acid-treated spent.
64742–26–3	Hydrocarbon waxes (petroleum), acid-treated.
64742–27–4	Distillates (petroleum), chemically neutralized heavy paraffinic.
64742–28–5	Distillates (petroleum), chemically neutralized light paraffinic.
64742–29–6	Gas oils (petroleum), chemically neutralized.
64742–30–9	Distillates (petroleum), chemically neutralized middle.
64742–31–0	Distillates (petroleum), chemically neutralized light.
64742–32–1	Lubricating oils (petroleum), chemically neutralized spent.
64742–33–2	Hydrocarbon waxes (petroleum), chemically neutralized.
64742–34–3	Distillates (petroleum), chemically neutralized heavy naphthenic.
64742–35–4	Distillates (petroleum), chemically neutralized light naphthenic.
64742–36–5	Distillates (petroleum), clay-treated heavy paraffinic.
64742–37–6	Distillates (petroleum), clay-treated light paraffinic.
64742–38–7	Distillates (petroleum), clay-treated middle.
64742–39–8	Neutralizing agents (petroleum), spent sodium carbonate.
64742–40–1	Neutralizing agents (petroleum), spent sodium hydroxide.
64742–41–2	Residual oils (petroleum), clay-treated.
64742–42–3	Hydrocarbon waxes (petroleum), clay-treated microcryst.
64742–43–4	Paraffin waxes (petroleum), clay-treated.
64742–44–5	Distillates (petroleum), clay-treated heavy naphthenic.
64742–45–6	Distillates (petroleum), clay-treated light naphthenic.
64742–46–7	Distillates (petroleum), hydrotreated middle.
64742–47–8	Distillates (petroleum), hydrotreated light.
64742–48–9	Naphtha (petroleum), hydrotreated heavy.
64742–49–0	Naphtha (petroleum), hydrotreated light.
64742–50–3	Lubricating oils (petroleum), clay-treated spent.
64742–51–4	Paraffin waxes (petroleum), hydrotreated.
64742–52–5	Distillates (petroleum), hydrotreated heavy naphthenic.
64742–53–6	Distillates (petroleum), hydrotreated light naphthenic.
64742–54–7	Distillates (petroleum), hydrotreated heavy paraffinic.
64742–55–8	Distillates (petroleum), hydrotreated light paraffinic.
64742–56–9	Distillates (petroleum), solvent-dewaxed light paraffinic.
64742–57–0	Residual oils (petroleum), hydrotreated.
64742–58–1	Lubricating oils (petroleum), hydrotreated spent.
64742–59–2	Gas oils (petroleum), hydrotreated vacuum.
64742–60–5	Hydrocarbon waxes (petroleum), hydrotreated microcryst.
64742–61–6	Slack wax (petroleum).
64742–62–7	Residual oils (petroleum), solvent-dewaxed.
64742–63–8	Distillates (petroleum), solvent-dewaxed heavy naphthenic.
64742–64–9	Distillates (petroleum), solvent-dewaxed light naphthenic.
64742–65–0	Distillates (petroleum), solvent-dewaxed heavy paraffinic.
64742–67–2	Foots oil (petroleum).
64742–68–3	Naphthenic oils (petroleum), catalytic dewaxed heavy.

TABLE 1—CASRNs OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
64742–69–4	Naphthenic oils (petroleum), catalytic dewaxed light.
64742–70–7	Paraffin oils (petroleum), catalytic dewaxed heavy.
64742–71–8	Paraffin oils (petroleum), catalytic dewaxed light.
64742–72–9	Distillates (petroleum), catalytic dewaxed middle.
64742–73–0	Naphtha (petroleum), hydrodesulfurized light.
64742–75–2	Naphthenic oils (petroleum), complex dewaxed heavy.
64742–76–3	Naphthenic oils (petroleum), complex dewaxed light.
64742–78–5	Residues (petroleum), hydrodesulfurized atmospheric tower.
64742–79–6	Gas oils (petroleum), hydrodesulfurized.
64742–80–9	Distillates (petroleum), hydrodesulfurized middle.
64742–81–0	Kerosine (petroleum), hydrodesulfurized.
64742–82–1	Naphtha (petroleum), hydrodesulfurized heavy.
64742–83–2	Naphtha (petroleum), light steam-cracked.
64742–85–4	Residues (petroleum), hydrodesulfurized vacuum.
64742–86–5	Gas oils (petroleum), hydrodesulfurized heavy vacuum.
64742–87–6	Gas oils (petroleum), hydrodesulfurized light vacuum.
64742–88–7	Solvent naphtha (petroleum), medium aliph.
64742–89–8	Solvent naphtha (petroleum), light aliph.
64742–90–1	Residues (petroleum), steam-cracked.
64742–91–2	Distillates (petroleum), steam-cracked.
64742–92–3	Petroleum resins, oxidized.
64742–93–4	Asphalt, oxidized.
64742–94–5	Solvent naphtha (petroleum), heavy arom.
64742–95–6	Solvent naphtha (petroleum), light arom.
64742–96–7	Solvent naphtha (petroleum), heavy aliph.
64742–97–8	Distillates (petroleum), oxidized heavy.
64742–98–9	Distillates (petroleum), oxidized light.
64742–99–0	Residual oils (petroleum), oxidized.
64743–00–6	Hydrocarbon waxes (petroleum), oxidized.
64743–01–7	Petrolatum (petroleum), oxidized.
64743–02–8	Alkenes, C > 10 .alpha.-.
64743–03–9	Phenols (petroleum).
64743–04–0	Coke (petroleum), recovery.
64743–05–1	Coke (petroleum), calcined.
64743–06–2	Extracts (petroleum), gas oil solvent.
64743–07–3	Sludges (petroleum), chemically neutralized.
64754–89–8	Naphthenic acids (petroleum), crude.
64771–71–7	Paraffins (petroleum), normal C > 10.
64771–72–8	Paraffins (petroleum), normal C5–20.
67254–74–4	Naphthenic oils.
67674–12–8	Residual oils (petroleum), oxidized, compounds with triethanolamine.
67674–13–9	Petrolatum (petroleum), oxidized, partially deacidified.
67674–15–1	Petrolatum (petroleum), oxidized, Me ester.
67674–16–2	Hydrocarbon waxes (petroleum), oxidized, partially deacidified.
67674–17–3	Distillates (petroleum), oxidized light, compounds with triethanolamine.
67674–18–4	Distillates (petroleum), oxidized light, Bu esters.
67891–79–6	Distillates (petroleum), heavy arom.
67891–80–9	Distillates (petroleum), light arom.
67891–81–0	Distillates (petroleum), oxidized light, potassium salts.
67891–82–1	Hydrocarbon waxes (petroleum), oxidized, compounds with ethanolamine.
67891–83–2	Hydrocarbon waxes (petroleum), oxidized, compounds with isopropanolamine.
67891–85–4	Hydrocarbon waxes (petroleum), oxidized, compounds with triisopropanolamine.
67891–86–5	Hydrocarbon waxes (petroleum), oxidized, compds. with diisopropanolamine.
68131–05–5	Hydrocarbon oils, process blends.
68131–49–7	Aromatic hydrocarbons, C6–10, acid-treated, neutralized.
68131–75–9	Gases (petroleum), C3–4.
68153–22–0	Paraffin waxes and Hydrocarbon waxes, oxidized.
68187–57–5	Pitch, coal tar-petroleum.
68187–58–6	Pitch, petroleum, arom.
68187–60–0	Hydrocarbons, C4, ethane-propane-cracked.
68307–98–2	Tail gas (petroleum), catalytic cracked distillate and catalytic cracked naphtha fractionation absorber.
68307–99–3	Tail gas (petroleum), catalytic polymn. naphtha fractionation stabilizer.
68308–00–9	Tail gas (petroleum), catalytic reformed naphtha fractionation stabilizer, hydrogen sulfide-free.
68308–01–0	Tail gas (petroleum), cracked distillate hydrotreater stripper.
68308–02–1	Tail gas (petroleum), distn., hydrogen sulfide-free.
68308–03–2	Tail gas (petroleum), gas oil catalytic cracking absorber.
68308–04–3	Tail gas (petroleum), gas recovery plant.
68308–05–4	Tail gas (petroleum), gas recovery plant deethanizer.
68308–06–5	Tail gas (petroleum), hydrodesulfurized distillate and hydrodesulfurized naphtha fractionator, acid-free.
68308–07–6	Tail gas (petroleum), hydrodesulfurized vacuum gas oil stripper, hydrogen sulfide-free.
68308–08–7	Tail gas (petroleum), isomerized naphtha fractionation stabilizer.

TABLE 1—CASRNS OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
68308–09–8	Tail gas (petroleum), light straight-run naphtha stabilizer, hydrogen sulfide-free.
68308–10–1	Tail gas (petroleum), straight-run distillate hydrodesulfurizer, hydrogen sulfide-free.
68308–11–2	Tail gas (petroleum), propane-propylene alkylation feed prep deethanizer.
68308–12–3	Tail gas (petroleum), vacuum gas oil hydrodesulfurizer, hydrogen sulfide-free.
68308–27–0	Fuel gases, refinery.
68333–22–2	Residues (petroleum), atmospheric.
68333–23–3	Naphtha (petroleum), heavy coker.
68333–24–4	Hydrocarbon waxes (petroleum), oxidized, compds. with triethanolamine.
68333–25–5	Distillates (petroleum), hydrodesulfurized light catalytic cracked.
68333–26–6	Clarified oils (petroleum), hydrodesulfurized catalytic cracked.
68333–27–7	Distillates (petroleum), hydrodesulfurized intermediate catalytic cracked.
68333–28–8	Distillates (petroleum), hydrodesulfurized heavy catalytic cracked.
68333–29–9	Residues (petroleum), light naphtha solvent extracts.
68333–30–2	Distillates (petroleum), oxidized heavy thermal cracked.
68333–81–3	Alkanes, C4–12.
68333–88–0	Aromatic hydrocarbons, C9–17.
68334–30–5	Fuels, diesel.
68409–99–4	Gases (petroleum), catalytic cracked overheads.
68410–00–4	Distillates (petroleum), crude oil.
68410–05–9	Distillates (petroleum), straight-run light.
68410–12–8	Distillates (petroleum), steam-cracked, C5–10 fraction, high-temperature stripping products with light steam-cracked petroleum naphtha C5 fraction polymers.
68410–71–9	Raffinates (petroleum), catalytic reformer ethylene glycol-water countercurrent exts.
68410–96–8	Distillates (petroleum), hydrotreated middle, intermediate boiling.
68410–97–9	Distillates (petroleum), light distillate hydrotreating process, low-boiling.
68410–98–0	Distillates (petroleum), hydrotreated heavy naphtha, deisohexanizer overheads.
68411–00–7	Alkenes, C > 8.
68425–29–6	Distillates (petroleum), naphtha-raffinate pyrolyzate-derived, gasoline-blending.
68425–33–2	Petrolatum (petroleum), oxidized, barium salt.
68425–34–3	Petrolatum (petroleum), oxidized, calcium salt.
68425–35–4	Raffinates (petroleum), reformer, Lurgi unit-sepd.
68425–39–8	Alkenes, C > 10 .alpha.-, oxidized.
68441–09–8	Hydrocarbon waxes (petroleum), clay-treated microcryst., contg. polyethylene, oxidized.
68459–78–9	Alkenes, C18–24 .alpha.-, dimers.
68475–57–0	Alkanes, C1–2.
68475–58–1	Alkanes, C2–3.
68475–59–2	Alkanes, C3–4.
68475–60–5	Alkanes, C4–5.
68475–61–6	Alkenes, C5, naphtha-raffinate pyrolyzate-derived.
68475–70–7	Aromatic hydrocarbons, C6–8, naphtha-raffinate pyrolyzate-derived.
68475–79–6	Distillates (petroleum), catalytic reformed depentanizer.
68475–80–9	Distillates (petroleum), light steam-cracked naphtha.
68476–26–6	Fuel gases.
68476–27–7	Fuel gases, amine system residues.
68476–28–8	Fuel gases, C6–8 catalytic reformer.
68476–29–9	Fuel gases, crude oil distillates.
68476–30–2	Fuel oil, no. 2.
68476–31–3	Fuel oil, no. 4.
68476–32–4	Fuel oil, residues-straight-run gas oils, high-sulfur.
68476–33–5	Fuel oil, residual.
68476–34–6	Fuels, diesel, no. 2.
68476–39–1	Hydrocarbons, aliph.-arom.-C4–5-olefinic.
68476–40–4	Hydrocarbons, C3–4.
68476–42–6	Hydrocarbons, C4–5.
68476–43–7	Hydrocarbons, C4–6, C5-rich.
68476–44–8	Hydrocarbons, C > 3.
68476–45–9	Hydrocarbons, C5–10 arom. conc., ethylene-manuf.-by-product.
68476–46–0	Hydrocarbons, C3–11, catalytic cracker distillates.
68476–47–1	Hydrocarbons, C2–6, C6–8 catalytic reformer.
68476–49–3	Hydrocarbons, C2–4, C3-rich.
68476–50–6	Hydrocarbons, C ≥ 5, C5–6-rich.
68476–52–8	Hydrocarbons, C4, ethylene-manuf.-by-product.
68476–53–9	Hydrocarbons, C ≥ 20, petroleum wastes.
68476–54–0	Hydrocarbons, C3–5, polymn. unit feed.
68476–55–1	Hydrocarbons, C5-rich.
68476–56–2	Hydrocarbons, cyclic C5 and C6.
68476–77–7	Lubricating oils, refined used.
68476–81–3	Paraffin waxes and Hydrocarbon waxes, oxidized, calcium salts.
68476–84–6	Petroleum products, gases, inorg.
68476–85–7	Petroleum gases, liquefied.
68476–86–8	Petroleum gases, liquefied, sweetened.

TABLE 1—CASRNs OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
68477–25–8	Waste gases, vent gas, C1–6.
68477–26–9	Wastes, petroleum.
68477–29–2	Distillates (petroleum), catalytic reformer fractionator residue, high-boiling.
68477–30–5	Distillates (petroleum), catalytic reformer fractionator residue, intermediate-boiling.
68477–31–6	Distillates (petroleum), catalytic reformer fractionator residue, low-boiling.
68477–33–8	Gases (petroleum), C3–4, isobutane-rich.
68477–34–9	Distillates (petroleum), C3–5, 2-methyl-2-butene-rich.
68477–35–0	Distillates (petroleum), C3–6, piperylene-rich.
68477–36–1	Distillates (petroleum), cracked steam-cracked, C5–18 fraction.
68477–38–3	Distillates (petroleum), cracked steam-cracked petroleum distillates.
68477–39–4	Distillates (petroleum), cracked stripped steam-cracked petroleum distillates, C8–10 fraction.
68477–40–7	Distillates (petroleum), cracked stripped steam-cracked petroleum distillates, C10–12 fraction.
68477–41–8	Gases (petroleum), extractive, C3–5, butadiene-butene-rich.
68477–42–9	Gases (petroleum), extractive, C3–5, butene-isobutylene-rich.
68477–44–1	Distillates (petroleum), heavy naphthenic, mixed with steam-cracked petroleum distillates C5–12 fraction.
68477–47–4	Distillates (petroleum), mixed heavy olefin vacuum, heart-cut.
68477–48–5	Distillates (petroleum), mixed heavy olefin vacuum, low-boiling.
68477–53–2	Distillates (petroleum), steam-cracked, C5–12 fraction.
68477–54–3	Distillates (petroleum), steam-cracked, C8–12 fraction.
68477–55–4	Distillates (petroleum), steam-cracked, C5–10 fraction, mixed with light steam-cracked petroleum naphtha C5 fraction.
68477–58–7	Distillates (petroleum), steam-cracked petroleum distillates, C5–18 fraction.
68477–59–8	Distillates (petroleum), steam-cracked petroleum distillates cyclopentadiene conc.
68477–60–1	Extracts (petroleum), cold-acid.
68477–61–2	Extracts (petroleum), cold-acid, C4–6.
68477–62–3	Extracts (petroleum), cold-acid, C3–5, butene-rich.
68477–63–4	Extracts (petroleum), reformer recycle.
68477–64–5	Gases (petroleum), acetylene manuf. off.
68477–65–6	Gases (petroleum), amine system feed.
68477–66–7	Gases (petroleum), benzene unit hydrodesulfurizer off.
68477–67–8	Gases (petroleum), benzene unit recycle, hydrogen-rich.
68477–68–9	Gases (petroleum), blend oil, hydrogen-nitrogen-rich.
68477–69–0	Gases (petroleum), butane splitter overheads.
68477–70–3	Gases (petroleum), C2–3.
68477–71–4	Gases (petroleum), catalytic-cracked gas oil depropanizer bottoms, C4-rich acid-free.
68477–72–5	Gases (petroleum), catalytic-cracked naphtha debutanizer bottoms, C3–5-rich.
68477–73–6	Gases (petroleum), catalytic cracked naphtha depropanizer overhead, C3-rich acid-free.
68477–74–7	Gases (petroleum), catalytic cracker.
68477–75–8	Gases (petroleum), catalytic cracker, C1–5-rich.
68477–76–9	Gases (petroleum), catalytic polymd. naphtha stabilizer overhead, C2–4-rich.
68477–77–0	Gases (petroleum), catalytic reformed naphtha stripper overheads.
68477–79–2	Gases (petroleum), catalytic reformer, C1–4-rich.
68477–80–5	Gases (petroleum), C6–8 catalytic reformer recycle.
68477–81–6	Gases (petroleum), C6–8 catalytic reformer.
68477–82–7	Gases (petroleum), C6–8 catalytic reformer recycle, hydrogen-rich.
68477–83–8	Gases (petroleum), C3–5 olefinic-paraffinic alkylation feed.
68477–84–9	Gases (petroleum), C2-return stream.
68477–85–0	Gases (petroleum), C4-rich.
68477–86–1	Gases (petroleum), deethanizer overheads.
68477–87–2	Gases (petroleum), deisobutanizer tower overheads.
68477–88–3	Gases (petroleum), deethanizer overheads, C3-rich.
68477–89–4	Distillates (petroleum), depentanizer overheads.
68477–90–7	Gases (petroleum), depropanizer dry, propene-rich.
68477–91–8	Gases (petroleum), depropanizer overheads.
68477–92–9	Gases (petroleum), dry sour, gas-concentration concn.-unit-off.
68477–93–0	Gases (petroleum), gas concn. reabsorber distn.
68477–94–1	Gases (petroleum), gas recovery plant depropanizer overheads.
68477–95–2	Gases (petroleum), Girbatol unit feed.
68477–96–3	Gases (petroleum), hydrogen absorber off.
68477–97–4	Gases (petroleum), hydrogen-rich.
68477–98–5	Gases (petroleum), hydrotreater blend oil recycle, hydrogen-nitrogen rich.
68477–99–6	Gases (petroleum), isomerized naphtha fractionater, C4-rich, hydrogen sulfide-free.
68478–00–2	Gases (petroleum), recycle, hydrogen-rich.
68478–01–3	Gases (petroleum), reformer make-up, hydrogen-rich.
68478–02–4	Gases (petroleum), reforming hydrotreater.
68478–03–5	Gases (petroleum), reforming hydrotreater, hydrogen-methane-rich.
68478–04–6	Gases (petroleum), reforming hydrotreater make-up, hydrogen-rich.
68478–05–7	Gases (petroleum), thermal cracking distn.
68478–08–0	Naphtha (petroleum), light steam-cracked, C5-fraction, oligomer conc.
68478–10–4	Naphtha (petroleum), light steam-cracked, debenzenized, C8–16-cycloalkadiene conc.
68478–12–6	Residues (petroleum), butane splitter bottoms.
68478–13–7	Residues (petroleum), catalytic reformer fractionator residue distn.

TABLE 1—CASRNs OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
68478–15–9	Residues (petroleum), C6–8 catalytic reformer.
68478–16–0	Residual oils (petroleum), deisobutanizer tower.
68478–17–1	Residues (petroleum), heavy coker gas oil and vacuum gas oil.
68478–18–2	Residues (petroleum), heavy olefin vacuum.
68478–19–3	Residual oils (petroleum), propene purifn. splitter.
68478–20–6	Residues (petroleum), steam-cracked petroleum distillates cyclopentadiene conc., C4-cyclopentadiene-free.
68478–22–8	Tail gas (petroleum), catalytic cracked naphtha stabilization absorber.
68478–24–0	Tail gas (petroleum), catalytic cracker, catalytic reformer and hydrodesulfurizer combined fractionater.
68478–25–1	Tail gas (petroleum), catalytic cracker refractionation absorber.
68478–26–2	Tail gas (petroleum), catalytic reformed naphtha fractionation stabilizer.
68478–27–3	Tail gas (petroleum), catalytic reformed naphtha separator.
68478–28–4	Tail gas (petroleum), catalytic reformed naphtha stabilizer.
68478–29–5	Tail gas (petroleum), cracked distillate hydrotreater separator.
68478–30–8	Tail gas (petroleum), hydrodesulfurized straight-run naphtha separator.
68478–31–9	Tail gas (petroleum), isomerized naphtha fractionates, hydrogen sulfide-free.
68478–32–0	Tail gas (petroleum), saturate gas plant mixed stream, C4-rich.
68478–33–1	Tail gas (petroleum), saturate gas recovery plant, C1–2-rich.
68478–34–2	Tail gas (petroleum), vacuum residues thermal cracker.
68512–61–8	Residues (petroleum), heavy coker and light vacuum.
68512–62–9	Residues (petroleum), light vacuum.
68512–78–7	Solvent naphtha (petroleum), light arom., hydrotreated.
68512–91–4	Hydrocarbons, C3–4-rich, petroleum distillates.
68513–02–0	Naphtha (petroleum), full-range coker.
68513–03–1	Naphtha (petroleum), light catalytic reformed, arom.-free.
68513–11–1	Fuel gases, hydrotreater fractionation, scrubbed.
68513–12–2	Fuel gases, saturate gas unit fractionater-absorber overheads.
68513–13–3	Fuel gases, thermal cracked catalytic cracking residue.
68513–14–4	Gases (petroleum), catalytic reformed straight-run naphtha stabilizer overheads.
68513–15–5	Gases (petroleum), full-range straight-run naphtha dehexanizer off.
68513–16–6	Gases (petroleum), hydrocracking depropanizer off, hydrocarbon-rich.
68513–17–7	Gases (petroleum), light straight-run naphtha stabilizer off.
68513–18–8	Gases (petroleum), reformer effluent high-pressure flash drum off.
68513–19–9	Gases (petroleum), reformer effluent low-pressure flash drum off.
68513–62–2	Disulfides, C5–12-alkyl.
68513–63–3	Distillates (petroleum), catalytic reformed straight-run naphtha overheads.
68513–65–5	Butane, branched and linear.
68513–66–6	Residues (petroleum), alkylation splitter, C4-rich.
68513–67–7	Residues (petroleum), cyclooctadiene bottoms.
68513–68–8	Residues (petroleum), deethanizer tower.
68513–69–9	Residues (petroleum), steam-cracked light.
68513–74–6	Waste gases, ethylene oxide absorber-reactor.
68514–15–8	Gasoline, vapor-recovery.
68514–29–4	Hydrocarbons, amylene feed debutanizer overheads non-extractable raffinates.
68514–31–8	Hydrocarbons, C1–4.
68514–32–9	Hydrocarbons, C10 and C12, olefin-rich.
68514–33–0	Hydrocarbons, C12 and C14, olefin-rich.
68514–34–1	Hydrocarbons, C9–14, ethylene-manuf.-by-product.
68514–35–2	Hydrocarbons, C14–30, olefin-rich.
68514–36–3	Hydrocarbons, C1–4, sweetened.
68514–37–4	Hydrocarbons, C4–5-unsatd.
68514–38–5	Hydrocarbons, C4–10-unsatd.
68514–39–6	Naphtha (petroleum), light steam-cracked, isoprene-rich.
68514–79–4	Petroleum products, hydrofiner-powerformer reformates.
68515–25–3	Benzene, C1–9-alkyl derivs.
68515–26–4	Benzene, di-C12–14-alkyl derivs.
68515–27–5	Benzene, di-C10–14-alkyl derivs., fractionation overheads, heavy ends.
68515–28–6	Benzene, di-C10–14-alkyl derivs., fractionation overheads, light ends.
68515–29–7	Benzene, di-C10–14-alkyl derivs., fractionation overheads, middle cut.
68515–30–0	Benzene, mono-C20–48-alkyl derivs.
68515–32–2	Benzene, mono-C12–14-alkyl derivs., fractionation bottoms.
68515–33–3	Benzene, mono-C10–12-alkyl derivs., fractionation bottoms, heavy ends.
68515–34–4	Benzene, mono-C12–14-alkyl derivs., fractionation bottoms, heavy ends.
68515–35–5	Benzene, mono-C10–12-alkyl derivs., fractionation bottoms, light ends.
68515–36–6	Benzene, mono-C12–14-alkyl derivs., fractionation bottoms, light ends.
68516–20–1	Naphtha (petroleum), steam-cracked middle arom.
68526–52–3	Alkenes, C6.
68526–53–4	Alkenes, C6–8, C7-rich.
68526–54–5	Alkenes, C7–9, C8-rich.
68526–55–6	Alkenes, C8–10, C9-rich.
68526–56–7	Alkenes, C9–11, C10-rich.
68526–57–8	Alkenes, C10–12, C11-rich.

TABLE 1—CASRNS OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
68526–58–9	Alkenes, C11–13, C12-rich.
68526–77–2	Aromatic hydrocarbons, ethane cracking scrubber effluent and flare drum.
68526–99–8	Alkenes, C6–9 .alpha.-.
68527–00–4	Alkenes, C8–9 .alpha.-.
68527–11–7	Alkenes, C5.
68527–13–9	Gases (petroleum), acid, ethanolamine scrubber.
68527–14–0	Gases (petroleum), methane-rich off.
68527–15–1	Gases (petroleum), oil refinery gas distn. off.
68527–16–2	Hydrocarbons, C1–3.
68527–18–4	Gas oils (petroleum), steam-cracked.
68527–19–5	Hydrocarbons, C1–4, debutanizer fraction.
68527–21–9	Naphtha (petroleum), clay-treated full-range straight-run.
68527–22–0	Naphtha (petroleum), clay-treated light straight-run.
68527–23–1	Naphtha (petroleum), light steam-cracked arom.
68527–26–4	Naphtha (petroleum), light steam-cracked, debenzenized.
68527–27–5	Naphtha (petroleum), full-range alkylate, butane-contg.
68553–00–4	Fuel oil, no. 6.
68553–14–0	Hydrocarbons, C8–11.
68602–79–9	Distillates (petroleum), benzene unit hydrotreater dipentanizer overheads.
68602–81–3	Distillates, hydrocarbon resin prodn. higher boiling.
68602–82–4	Gases (petroleum), benzene unit hydrotreater depentenizer overheads.
68602–83–5	Gases (petroleum), C1–5, wet.
68602–84–6	Gases (petroleum), secondary absorber off, fluidized catalytic cracker overheads fractionater.
68602–96–0	Distillates (petroleum), oxidized light, strong acid components, compds. with diethanolamine.
68602–97–1	Distillates (petroleum), oxidized light, strong acid components, sodium salts.
68602–98–2	Distillates (petroleum), oxidized light, strong acid components.
68602–99–3	Distillates (petroleum), oxidized light, strong acid-free.
68603–00–9	Distillates (petroleum), thermal cracked naphtha and gas oil.
68603–01–0	Distillates (petroleum), thermal cracked naphtha and gas oil, C5-dimer-contg.
68603–02–1	Distillates (petroleum), thermal cracked naphtha and gas oil, dimerized.
68603–03–2	Distillates (petroleum), thermal cracked naphtha and gas oil, extractive.
68603–08–7	Naphtha (petroleum), arom.- contg.
68603–09–8	Hydrocarbon waxes (petroleum), oxidized, calcium salts.
68603–10–1	Hydrocarbon waxes (petroleum), oxidized, Me esters, barium salts.
68603–11–2	Hydrocarbon waxes (petroleum), oxidized, Me esters, calcium salts.
68603–12–3	Hydrocarbon waxes (petroleum), oxidized, Me esters, sodium salts.
68603–13–4	Petrolatum (petroleum), oxidized, ester with sorbitol.
68603–14–5	Residual oils (petroleum), oxidized, calcium salts.
68603–31–6	Alkenes, C10, tert-amylene concentrator by-product.
68603–32–7	Alkenes, C15–20 .alpha.-, isomerized.
68606–09–7	Fuel gases, expander off.
68606–10–0	Gasoline, pyrolysis, debutanizer bottoms.
68606–11–1	Gasoline, straight-run, topping-plant.
68606–24–6	Hydrocarbons, C4, butene concentrator by-product.
68606–25–7	Hydrocarbons, C2–4.
68606–26–8	Hydrocarbons, C3.
68606–27–9	Gases (petroleum), alkylation feed.
68606–28–0	Hydrocarbons, C5 and C10-aliph. and C6–8-arom.
68606–31–5	Hydrocarbons, C3–5, butadiene purification (purifn.) by-product.
68606–34–8	Gases (petroleum), depropanizer bottoms fractionation off.
68606–36–0	Hydrocarbons, C5-unsatd. rich, isoprene purifn. by-product.
68607–11–4	Petroleum products, refinery gases.
68607–30–7	Residues (petroleum), topping plant, low-sulfur.
68608–56–0	Waste gases, from carbon black manuf.
68647–60–9	Hydrocarbons, C > 4.
68647–61–0	Hydrocarbons, C4–5, tert-amylene concentrator by-product.
68647–62–1	Hydrocarbons, C4–5, butene concentrator by-product, sour.
68650–36–2	Aromatic hydrocarbons, C8, *o*-xylene-lean.
68650–37–3	Paraffin waxes (petroleum), oxidized, sodium salts.
68782–97–8	Distillates (petroleum), hydrofined lubricating-oil.
68782–98–9	Extracts (petroleum), clarified oil solvent, condensed-ring-arom.-contg.
68782–99–0	Extracts (petroleum), heavy clarified oil solvent, condensed-ring-arom.-contg.
68783–00–6	Extracts (petroleum), heavy naphthenic distillate solvent, arom. conc.
68783–01–7	Extracts (petroleum), heavy naphthenic distillate solvent, paraffinic conc.
68783–02–8	Extracts (petroleum), intermediate clarified oil solvent, condensed-ring-arom.-contg.
68783–04–0	Extracts (petroleum), solvent-refined heavy paraffinic distillate solvent.
68783–05–1	Gases (petroleum), ammonia-hydrogen sulfide, water-satd.
68783–06–2	Gases (petroleum), hydrocracking low-pressure separator.
68783–07–3	Gases (petroleum), refinery blend.
68783–08–4	Gas oils (petroleum), heavy atmospheric.
68783–09–5	Naphtha (petroleum), catalytic cracked light distd.

TABLE 1—CASRNS OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
68783–12–0	Naphtha (petroleum), unsweetened.
68783–13–1	Residues (petroleum), coker scrubber, condensed-ring-arom.-contg.
68783–15–3	Alkenes, C6–7 .alpha.-.
68783–61–9	Fuel gases, refinery, sweetened.
68783–62–0	Fuel gases, refinery, unsweetened.
68783–64–2	Gases (petroleum), catalytic cracking.
68783–65–3	Gases (petroleum), C2–4, sweetened.
68783–66–4	Naphtha (petroleum), light, sweetened.
68814–47–1	Waste gases, refinery vent.
68814–67–5	Gases (petroleum), refinery.
68814–87–9	Distillates (petroleum), full-range straight-run middle.
68814–89–1	Extracts (petroleum), heavy paraffinic distillates, solvent-deasphalted.
68814–90–4	Gases (petroleum), platformer products separator off.
68814–91–5	Alkenes, C5–9 .alpha.-.
68855–57–2	Alkenes, C6–12 .alpha.-.
68855–58–3	Alkenes, C10–16 .alpha.-.
68855–59–4	Alkenes, C14–18 .alpha.-.
68855–60–7	Alkenes, C14–20 .alpha.-.
68911–58–0	Gases (petroleum), hydrotreated sour kerosine depentanizer stabilizer off.
68911–59–1	Gases (petroleum), hydrotreated sour kerosine flash drum.
68915–96–8	Distillates (petroleum), heavy straight-run.
68915–97–9	Gas oils (petroleum), straight-run, high-boiling.
68918–69–4	Petrolatum (petroleum), oxidized, zinc salt.
68918–73–0	Residues (petroleum), clay-treating filter wash.
68918–93–4	Paraffin waxes and Hydrocarbon waxes, oxidized, alkali metal salts.
68918–98–9	Fuel gases, refinery, hydrogen sulfide-free.
68918–99–0	Gases (petroleum), crude oil fractionation off.
68919–00–6	Gases (petroleum), dehexanizer off.
68919–01–7	Gases (petroleum), distillate unifiner desulfurization stripper off.
68919–02–8	Gases (petroleum), fluidized catalytic cracker fractionation off.
68919–03–9	Gases (petroleum), fluidized catalytic cracker scrubbing secondary absorber off.
68919–04–0	Gases (petroleum), heavy distillate hydrotreater desulfurization stripper off.
68919–05–1	Gases (petroleum), light straight run gasoline fractionation stabilizer off.
68919–06–2	Gases (petroleum), naphtha unifiner desulfurization stripper off.
68919–07–3	Gases (petroleum), platformer stabilizer off, light ends fractionation.
68919–08–4	Gases (petroleum), preflash tower off, crude distn.
68919–09–5	Gases (petroleum), straight-run naphtha catalytic reforming off.
68919–10–8	Gases (petroleum), straight-run stabilizer off.
68919–11–9	Gases (petroleum), tar stripper off.
68919–12–0	Gases (petroleum), unifiner stripper off.
68919–15–3	Hydrocarbons, C6–12, benzene-recovery.
68919–16–4	Hydrocarbons, catalytic alkylation, by-products, C3–6.
68919–17–5	Hydrocarbons, C12–20, catalytic alkylation by-products.
68919–19–7	Gases (petroleum), fluidized catalytic cracker splitter residues.
68919–20–0	Gases (petroleum), fluidized catalytic cracker splitter overheads.
68919–37–9	Naphtha (petroleum), full-range reformed.
68920–06–9	Hydrocarbons, C7–9.
68920–07–0	Hydrocarbons, C < 10-linear.
68920–64–9	Disulfides, di-C1–2-alkyl.
68921–07–3	Distillates (petroleum), hydrotreated light catalytic cracked.
68921–08–4	Distillates (petroleum), light straight-run gasoline fractionation stabilizer overheads.
68921–09–5	Distillates (petroleum), naphtha unifiner stripper.
68921–67–5	Hydrocarbons, ethylene-manuf.-by-product distn. residues.
68952–76–1	Gases (petroleum), catalytic cracked naphtha debutanizer.
68952–77–2	Tail gas (petroleum), catalytic cracked distillate and naphtha stabilizer.
68952–78–3	Tail gas (petroleum), catalytic hydrodesulfurized distillate fractionation stabilizer, hydrogen sulfide-free.
68952–79–4	Tail gas (petroleum), catalytic hydrodesulfurized naphtha separator.
68952–80–7	Tail gas (petroleum), straight-run naphtha hydrodesulfurizer.
68952–81–8	Tail gas (petroleum), thermal-cracked distillate, gas oil and naphtha absorber.
68952–82–9	Tail gas (petroleum), thermal cracked hydrocarbon fractionation stabilizer, petroleum coking.
68953–80–0	Benzene, mixed with toluene, dealkylation product.
68955–27–1	Distillates (petroleum), petroleum residues vacuum.
68955–28–2	Gases (petroleum), light steam-cracked, butadiene conc.
68955–31–7	Gases (petroleum), butadiene process, inorg.
68955–32–8	Natural gas, substitute, steam-reformed desulfurized naphtha.
68955–33–9	Gases (petroleum), sponge absorber off, fluidized catalytic cracker and gas oil desulfurizer overhead fractionation.
68955–34–0	Gases (petroleum), straight-run naphtha catalytic reformer stabilizer overhead.
68955–35–1	Naphtha (petroleum), catalytic reformed.
68955–36–2	Residues (petroleum), steam-cracked, resinous.
68955–76–0	Aromatic hydrocarbons, C9–16, biphenyl deriv.-rich.
68955–96–4	Disulfides, dialkyl and di-Ph, naphtha sweetening.

TABLE 1—CASRNS OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

CASRN	Product
68956–47–8	Fuel oil, isoprene reject absorption.
68956–48–9	Fuel oil, residual, wastewater skimmings.
68956–52–5	Hydrocarbons, C4–8.
68956–54–7	Hydrocarbons, C4-unsatd.
68956–55–8	Hydrocarbons, C5-unsatd.
68956–70–7	Petroleum products, C5–12, reclaimed, wastewater treatment.
68988–79–4	Benzene, C10–12-alkyl derivs., distn. residues.
68988–99–8	Phenols, sodium salts, mixed with sulfur compounds, gasoline alk. scrubber residues.
68989–88–8	Gases (petroleum), crude distn. and catalytic cracking.
68990–35–2	Distillates (petroleum), arom., hydrotreated, dicyclopentadiene-rich.
68991–49–1	Alkanes, C10–13, arom.-free desulfurized.
68991–50–4	Alkanes, C14–17, arom.-free desulfurized.
68991–51–5	Alkanes, C10–13, desulfurized.
68991–52–6	Alkenes, C10–16.
69013–21–4	Fuel oil, pyrolysis.
69029–75–0	Oils, reclaimed.
69430–33–7	Hydrocarbons, C6–30.
70024–88–3	Ethene, thermal cracking products.
70528–71–1	Distillates (petroleum), heavy distillate solvent ext. heart-cut.
70528–72–2	Distillates (petroleum), heavy distillate solvent ext. vacuum overheads.
70528–73–3	Residues (petroleum), heavy distillate solvent ext. vacuum.
70592–76–6	Distillates (petroleum), intermediate vacuum.
70592–77–7	Distillates (petroleum), light vacuum.
70592–78–8	Distillates (petroleum), vacuum.
70592–79–9	Residues (petroleum), atm. tower, light.
70693–00–4	Hydrocarbon waxes (petroleum), oxidized, sodium salts.
70693–06–0	Aromatic hydrocarbons, C9–11.
70913–85–8	Residues (petroleum), solvent-extd. vacuum distilled atm. residuum.
70913–86–9	Alkanes, C18–70.
70955–08–7	Alkanes, C4–6.
70955–09–8	Alkenes, C13–14 .alpha.-.
70955–10–1	Alkenes, C15–18 .alpha.-.
70955–17–8	Aromatic hydrocarbons, C12–20.
71243–66–8	Hydrocarbon waxes (petroleum), clay-treated, microcryst., oxidized, potassium salts.
71302–82–4	Hydrocarbons, C5–8, houdry butadiene manuf. by-product.
71329–37–8	Residues (petroleum), catalytic cracking depropanizer, C4-rich.
71808–30–5	Tail gas (petroleum), thermal cracking absorber.
72230–71–8	Distillates (petroleum), cracked steam-cracked, C5–17 fraction.
72623–83–7	Lubricating oils (petroleum), C > 25, hydrotreated bright stock-based.
72623–84–8	Lubricating oils (petroleum), C15–30, hydrotreated neutral oil-based, contg. solvent deasphalted residual oil.
72623–85–9	Lubricating oils (petroleum), C20–50, hydrotreated neutral oil-based, high-viscosity.
72623–86–0	Lubricating oils (petroleum), C15–30, hydrotreated neutral oil-based.
72623–87–1	Lubricating oils (petroleum), C20–50, hydrotreated neutral oil-based.
73138–65–5	Hydrocarbon waxes (petroleum), oxidized, magnesium salts.
92045–43–7	Lubricating oils (petroleum), hydrocracked non-arom. solvent deparaffined.
92045–58–4	Naphtha (petroleum), isomerization, C6-fraction.
92062–09–4	Slack wax (petroleum), hydrotreated.
93762–80–2	Alkenes, C15–18.
98859–55–3	Distillates (petroleum), oxidized heavy, compds. with diethanolamine.
98859–56–4	Distillates (petroleum), oxidized heavy, sodium salts.
101316–73–8	Lubricating oils (petroleum), used, non-catalytically refined.
164907–78–2	Extracts (petroleum), asphaltene-low vacuum residue solvent.
164907–79–3	Residues (petroleum), vacuum, asphaltene-low.
178603–63–9	Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C10–25.
178603–64–0	Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C15–30, branched and cyclic.
178603–65–1	Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C20–40, branched and cyclic.
178603–66–2	Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C25–55, branched and cyclic.
212210–93–0	Solvent naphtha (petroleum), heavy arom., distn. residues.
221120–39–4	Distillates (petroleum), cracked steam-cracked, C5–12 fraction.
445411–73–4	Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C10–25, branched and cyclic

(2) *Specific exempted chemical substances*—(i) *Exemption.* EPA has determined that, at this time, the information in § 711.15(b)(4) associated with the chemical substances listed in paragraph (b)(2)(iv) of this section is of low current interest.

(ii) *Considerations.* In making its determination of whether this partial exemption should apply to a particular chemical substance, EPA will consider the totality of information available for the chemical substance in question, including but not limited to, one or more of the following considerations:

(A) Whether the chemical substance qualifies or has qualified in past IUR collections for the reporting of the information described in § 711.15(b)(4).

(B) The chemical substance's chemical and physical properties or potential for persistence, bioaccumulation, health effects, or environmental effects (considered independently or together).

(C) The information needs of EPA, other Federal agencies, Tribes, States, and local governments, as well as members of the public.

(D) The availability of other complementary risk screening information.

(E) The availability of comparable processing and use information.

(F) Whether the potential risks of the chemical substance are adequately managed.

(iii) *Amendments.* EPA may amend the chemical substance list in paragraph (b)(2)(iv) of this section on its own initiative or in response to a request from the public based on EPA's determination of whether the information in § 711.15(b)(4) is of low interest.

(A) Any person may request that EPA amend the chemical substance list in Table 2 in paragraph (b)(2)(iv) of this section. Your request must be in writing and must be submitted to the following address: OPPT IUR Submission Coordinator (7407M), Attention: Inventory Update Reporting, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Requests must identify the chemical substance in question, as well as its CASRN or other chemical identification number as identified in § 711.15(b)(3)(i), and must contain a written rationale for the request that provides sufficient specific information, addressing the considerations listed in § 711.6(b)(2)(ii), including cites and relevant documents, to demonstrate to EPA that the collection of the information in § 711.15(b)(4) for the chemical substance in question either is or is not of low current interest. If a request related to a particular chemical substance is resubmitted, any subsequent request must clearly identify new information contained in the request. EPA may request other information that it believes necessary to evaluate the request. EPA will issue a written response to each request within 120 days of receipt of the request, and will maintain copies of these responses in a docket that will be established for each reporting cycle.

(B) As needed, the Agency will initiate rulemaking to make revisions to Table 2 in paragraph (b)(2)(iv) of this section.

(C) To assist EPA in reaching a decision regarding a particular request prior to a given principal reporting year, requests must be submitted to EPA no later than 12 months prior to the start of the next principal reporting year.

(iv) *List of chemical substances.* EPA has designated the chemical substances listed in Table 2 of this paragraph by CASRN, as partially exempt from reporting under the IUR.

TABLE 2—CASRN OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES

CASRN	Chemical
50–70–4	*D*-glucitol.
50–81–7	*L*-ascorbic acid.
50–99–7	*D*-glucose.
56–81–5	1,2,3-Propanetriol.
56–87–1	*L*-lysine.
57–50–1	.alpha.-*D*-Glucopyranoside, .beta.-*D*-fructofuranosyl.
58–95–7	2H-1-Benzopyran-6-ol, 3,4-dihydro-2,5,7,8-tetramethyl-2-[(4R,8R)-4,8,12-trimethyltridecyl]-, acetate, (2R)-.
59–02–9	2H-1-Benzopyran-6-ol, 3,4-dihydro-2,5,7,8-tetramethyl-2-[(4R,8R)-4,8,12-trimethyltridecyl]-, (2R)-.
59–51–8	Methionine.
69–65–8	*D*-mannitol.
87–79–6	*L*-sorbose.
87–99–0	Xylitol.
96–10–6	Aluminum, chlorodiethyl-.
97–93–8	Aluminum, triethyl-.
100–99–2	Aluminum, tris(2-methylpropyl)-.
123–94–4	Octadecanoic acid, 2,3-dihydroxypropyl ester.
124–38–9	Carbon dioxide.
137–08–6	.beta.-Alanine, N-[(2R)-2,4-dihydroxy-3,3-dimethyl-1-oxobutyl]-, calcium alt (2:1).
142–47–2	*L*-glutamic acid, monosodium salt.
150–30–1	Phenylalanine.
563–43–9	Aluminum, dichloroethyl-.
1070–00–4	Aluminum, trioctyl-.
1116–70–7	Aluminum, tributyl-.
1116–73–0	Aluminum, trihexyl-.
1191–15–7	Aluminum, hydrobis(2-methylpropyl)-.
1317–65–3	Limestone.
1333–74–0	Hydrogen.
1592–23–0	Octadecanoic acid, calcium salt.
7440–37–1	Argon.
7440–44–0	Carbon.
7727–37–9	Nitrogen.
7782–42–5	Graphite.
7782–44–7	Oxygen.
8001–21–6	Sunflower oil.
8001–22–7	Soybean oil.
8001–23–8	Safflower oil.
8001–26–1	Linseed oil.
8001–29–4	Cottonseed oil.
8001–30–7	Corn oil.
8001–31–8	Coconut oil.
8001–78–3	Castor oil, hydrogenated.
8001–79–4	Castor oil.

TABLE 2—CASRN OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES—Continued

CASRN	Chemical
8002–03–7	Peanut oil.
8002–13–9	Rape oil.
8002–43–5	Lecithins.
8002–75–3	Palm oil.
8006–54–0	Lanolin.
8016–28–2	Lard, oil.
8016–70–4	Soybean oil, hydrogenated.
8021–99–6	Charcoal, bone.
8029–43–4	Syrups, hydrolyzed starch.
11103–57–4	Vitamin A.
12075–68–2	Aluminum, di-.mu.-chlorochlorotriethyldi-.
12542–85–7	Aluminum, trichlorotrimethyldi-.
16291–96–6	Charcoal.
26836–47–5	*D*-glucitol, monooctadecanoate.
61789–44–4	Fatty acids, castor-oil.
61789–97–7	Tallow.
61789–99–9	Lard.
64147–40–6	Castor oil, dehydrated.
64755–01–7	Fatty acids, tallow, calcium salts.
65996–63–6	Starch, acid-hydrolyzed.
65996–64–7	Starch, enzyme-hydrolyzed.
67701–01–3	Fatty acids, C12–18.
68002–85–7	Fatty acids, C14–22 and C16–22-unsatd.
68131–37–3	Syrups, hydrolyzed starch, dehydrated.
68188–81–8	Grease, poultry.
68308–36–1	Soybean meal.
68308–54–3	Glycerides, tallow mono-, di- and tri-, hydrogenated.
68334–00–9	Cottonseed oil, hydrogenated.
68334–28–1	Fats and glyceridic oils, vegetable, hydrogenated.
68409–76–7	Bone meal, steamed.
68424–45–3	Fatty acids, linseed-oil.
68424–61–3	Glycerides, C16–18 and C18-unsatd. mono- and di-.
68425–17–2	Syrups, hydrolyzed starch, hydrogenated.
68439–86–1	Bone, ash.
68442–69–3	Benzene, mono-C10–14-alkyl derivs.
68476–78–8	Molasses.
68514–27–2	Grease, catch basin.
68514–74–9	Palm oil, hydrogenated.
68525–87–1	Corn oil, hydrogenated.
68648–87–3	Benzene, C10–16-alkyl derivs.
68918–42–3	Soaps, stocks, soya.
68952–94–3	Soaps, stocks, vegetable-oil.
68956–68–3	Fats and glyceridic oils, vegetable.
68989–98–0	Fats and glyceridic oils, vegetable, residues.
73138–67–7	Lard, hydrogenated.
120962–03–0	Canola oil.
129813–58–7	Benzene, mono-C10–13-alkyl derivs.
129813–59–8	Benzene, mono-C12–14-alkyl derivs.
129813–60–1	Benzene, mono-C14–16-alkyl derivs.

§ 14;711.8 Persons who must report.

Except as provided in §§ 711.9 and 711.10, the following persons are subject to the requirements of this part. Persons must determine whether they must report under this section for each chemical substance that they manufacture (including import) at an individual site.

(a) *Persons subject to recurring reporting*—(1) For the 2012 submission period, any person who manufactured (including imported) for commercial purposes 25,000 lb (11,340 kilogram (kg)) or more of a chemical substance described in § 711.5 at any single site owned or controlled by that person during the principal reporting year (i.e., calendar year 2011) is subject to reporting.

(2) For the submission periods subsequent to the 2012 submission period, any person who manufactured (including imported) for commercial purposes 25,000 lb (11,340 kg) or more of a chemical substance described in § 711.5 at any single site owned or controlled by that person during any calendar year since the last principal reporting year (*e.g.*, for the 2016 submission period, consider calendar years 2012, 2013, 2014, and 2015, given that 2011 was the last principal reporting year).

(b) *Exceptions.* For the 2016 submission period and subsequent submission periods, any person who manufactured (including imported) for commercial purposes any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 5(a)(2), 5(b)(4), or 6, or is the subject of an order in effect under TSCA section 5(e) or 5(f), or is the subject of relief that has been granted under a civil action under TSCA section 5 or 7 is subject to reporting as described in § 711.8(a), except that the applicable production volume threshold is 2,500 lb (1,134 kg).

§ 14;711.9 Persons not subject to this part.

A person described in § 711.8 is not subject to the requirements of this part

if that person qualifies as a small manufacturer as that term is defined in 40 CFR 704.3. Notwithstanding this exclusion, a person who qualifies as a small manufacturer is subject to this part with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or is the subject of an order in effect under TSCA section 5(e), or is the subject of relief that has been granted under a civil action under TSCA section 5 or 7.

§ 14;711.10 Activities for which reporting is not required.

A person described in § 711.8 is not subject to the requirements of this part with respect to any chemical substance described in § 711.5 that the person solely manufactured or imported under the following circumstances:

(a) The person manufactured or imported the chemical substance described in § 711.5 solely in small quantities for research and development.

(b) The person imported the chemical substance described in § 711.5 as part of an article.

(c) The person manufactured the chemical substance described in § 711.5 in a manner described in 40 CFR 720.30(g) or (h).

§ 14;711.15 Reporting information to EPA.

For the 2012 submission period, any person who must report under this part, as described in § 711.8, must submit the information described in this section for each chemical substance described in § 711.5 that the person manufactured (including imported) for commercial purposes in an amount of 25,000 lb (11,340 kg) or more at any one site during the principal reporting year (*i.e.*, calendar year 2011). For the submission periods subsequent to the 2012 submission period, any person who must report under this part, as described in § 711.8, must submit the information described in this section for each chemical substance described in § 711.5 that the person manufactured (including imported) for commercial purposes in an amount of 25,000 lb (11,340 kg) or more (or in an amount of 2,500 lb (1,134 kg) or more for chemical substances subject to the rules, orders, or actions described in § 711.8(b)) at any one site during any calendar year since the last principal reporting year (*e.g.*, for the 2016 submission period, consider calendar years 2012, 2013, 2014, and 2015, because 2011 was the last principal reporting year). The principal reporting year for each submission period is the previous calendar year (*e.g.*, the principal reporting year for the 2016 submission period is calendar year 2015). For all submission periods, a separate report must be submitted for each chemical substance at each site for which the submitter is required to report. A submitter of information under this part must report information as described in this section to the extent that such information is known to or reasonably ascertainable by that person.

(a) *Reporting information to EPA.* Any person who reports information to EPA must do so using the e-CDRweb reporting tool provided by EPA at the address set forth in § 711.35. The submission must include all information described in paragraph (b) of this section. Persons must submit a separate Form U for each site for which the person is required to report. The e-CDRweb reporting tool is described in the instructions available from EPA at the Web site set forth in § 711.35.

(b) *Information to be reported.* For the 2012 submission period, manufacturers (including importers) of a reportable chemical substance in an amount of 25,000 lb (11,340 kg) or more at a site during the principal reporting year (*i.e.*, 2011) must report the information described in paragraphs (b)(1), (b)(2), and (b)(3) of this section. For the 2012 submission period, manufacturers (including importers) of a reportable chemical substance in an amount of 100,000 lb (45,359 kg) or more at a site during the principal reporting year (*i.e.*, 2011) must additionally report the information described in paragraph (b)(4) of this section. For submission periods subsequent to the 2012 submission period, the information described in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this section must be reported for each chemical substance manufactured (including imported) in an amount of 25,000 lb (11,340 kg) or more (or in an amount of 2,500 lb (1,134 kg) or more for chemical substances subject to the rules, orders, or actions described in § 711.8(b)) at any one site during any calendar year since the last principal reporting year. The requirement to report information described in paragraph (b)(4) of this section is subject to exemption as described in § 711.6.

(1) *A certification statement signed and dated by an authorized official of the submitter company.* The authorized official must certify that the submitted information has been completed in compliance with the requirements of this part and that the confidentiality claims made on the Form U are true and correct. The certification must be signed and dated by the authorized official for the submitter company, and provide that person's name, official title, and e-mail address.

(2) *Company and plant site information.* The following currently correct company and plant site information must be reported for each site at which a reportable chemical substance is manufactured (including imported) above the applicable production volume threshold, as described in this section (see § 711.3 for the "site" for importers):

(i) The U.S. parent company name, address, and Dun and Bradstreet D–U–N–S® (D&B) number. A submitter under this part must obtain a D&B number for the U.S. parent company if none exists.

(ii) The name of a person who will serve as technical contact for the submitter company, and who will be able to answer questions about the information submitted by the company to EPA, the contact person's full mailing address, telephone number, and e-mail address.

(iii) The name and full street address of each site. A submitter under this part must include the appropriate D&B number for each plant site reported; and the county or parish (or other jurisdictional indicator) in which the plant site is located. A submitter under this part must obtain a D&B number for the site reported if none exists.

(3) *Chemical-specific information.* The following chemical-specific information must be reported for each reportable chemical substance manufactured (including imported) above the applicable production volume threshold, as described in paragraph (b) of this section:

(i) The specific, currently correct CA Index name as used to list the chemical substance on the TSCA Inventory and the correct corresponding CASRN for each reportable chemical substance at each site. A submitter under this part may use an EPA-designated TSCA Accession Number for a chemical substance in lieu of a CASRN when a CASRN is not known to or reasonably ascertainable by the submitter. Submitters who wish to report chemical substances listed on the confidential portion of the TSCA Inventory will need to report the chemical substance using a TSCA Accession Number.

In addition to reporting the number itself, submitters must specify the type of number they are reporting by selecting from among the codes in Table 3 of this paragraph.

TABLE 3—CODES TO SPECIFY TYPE OF CHEMICAL IDENTIFYING NUMBER

Code	Number type
A	TSCA Accession Number.
C	Chemical Abstracts Service Registry Number (CASRN).

(A) If an importer submitting a report cannot provide the information specified in § 711.15(b)(3)(i) because it is unknown to the importer and claimed as confidential by the supplier of the chemical substance or mixture, the importer must use e-CDRweb to ask the supplier to provide the correct chemical identity information directly to EPA in a joint submission. Such request must include instructions for submitting chemical identity information electronically, using e-CDRweb and CDX (see § 711.35), and for clearly referencing the importer's submission. Contact information for the supplier, a trade name or other designation for the chemical substance or mixture, and a copy of the request to the supplier must be included with the importer's submission respecting the chemical substance.

(B) If a manufacturer submitting a report cannot provide the information specified in § 711.15(b)(3)(i) because the reportable chemical substance is manufactured using a reactant having a specific chemical identity that is unknown to the manufacturer and claimed as confidential by its supplier, the manufacturer must use e-CDRweb to ask the supplier of the confidential reactant to provide the correct chemical identity of the confidential reactant directly to EPA in a joint submission. Such request must include instructions for submitting chemical identity information electronically using e-CDRweb and CDX (see § 711.35), and for clearly referencing the manufacturer's submission. Contact information for the supplier, a trade name or other designation for the chemical substance, and a copy of the request to the supplier must be included with the importer's submission respecting the chemical substance.

(C) EPA will only accept joint submissions that are submitted electronically using e-CDRweb and CDX (see § 711.35) and that clearly reference the primary submission to which they refer.

(ii) For the principal reporting year only, a statement indicating, for each reportable chemical substance at each site, whether the chemical substance is manufactured in the United States, imported into the United States, or both manufactured in the United States and imported into the United States.

(iii) For the principal reporting year, the total annual volume (in pounds) of each reportable chemical substance domestically manufactured or imported at each site. The total annual domestically manufactured volume (not including imported volume) and the total annual imported volume must be separately reported. These amounts must be reported to two significant figures of accuracy. In addition, for the 2012 submission period only, the total annual volume (domestically manufactured plus imported volumes in pounds) of each reportable chemical substance at each site during calendar year 2010. In addition, for submission periods subsequent to the 2012 submission period, the total annual volume (domestically manufactured plus imported volumes in pounds) of each reportable chemical substance at each site for each complete calendar year since the last principal reporting year.

(iv) For the principal reporting year only, the volume used on site and the volume directly exported of each reportable chemical substance domestically manufactured or imported at each site. These amounts must be reported to two significant figures of accuracy.

(v) For the principal reporting year only, a designation indicating, for each imported reportable chemical substance at each site, whether the imported chemical substance is physically present at the reporting site.

(vi) For the principal reporting year only, a designation indicating, for each reportable chemical substance at each site, whether the chemical substance is being recycled, remanufactured, reprocessed, reused, or otherwise used for a commercial purpose instead of being disposed of as a waste or included in a waste stream.

(vii) For the principal reporting year only, the total number of workers reasonably likely to be exposed to each reportable chemical substance at each site. For each reportable chemical substance at each site, the submitter must select from among the ranges of workers listed in Table 4 of this paragraph and report the corresponding code (*i.e.*, W1 through W8):

TABLE 4—CODES FOR REPORTING NUMBER OF WORKERS REASONABLY LIKELY TO BE EXPOSED

Code	Range
W1	Fewer than 10 workers.
W2	At least 10 but fewer than 25 workers.
W3	At least 25 but fewer than 50 workers.
W4	At least 50 but fewer than 100 workers.
W5	At least 100 but fewer than 500 workers.
W6	At least 500 but fewer than 1,000 workers.
W7	At least 1,000 but fewer than 10,000 workers.
W8	At least 10,000 workers.

(viii) For the principal reporting year only, the maximum concentration, measured by percentage of weight, of each reportable chemical substance at the time it is sent off-site from each site. If the chemical substance is site-limited, you must report the maximum concentration, measured by percentage of weight of the reportable chemical substance at the time it is reacted on-site to produce a different chemical substance. This information must be reported regardless of the physical form(s) in which the chemical substance is sent off-site/reacted on-site. For each chemical substance at each site, select the maximum concentration of the chemical substance from among the ranges listed in Table 5 of this paragraph and report the corresponding code (*i.e.*, M1 through M5):

TABLE 5—CODES FOR REPORTING MAXIMUM CONCENTRATION OF CHEMICAL SUBSTANCE

Code	Concentration range (% weight)
M1	Less than 1% by weight.
M2	At least 1 but less than 30% by weight.
M3	At least 30 but less than 60% by weight.
M4	At least 60 but less than 90% by weight.
M5	At least 90% by weight.

(ix) For the principal reporting year only, the physical form(s) of the reportable chemical substance as it is sent off-site from each site. If the chemical substance is site-limited, you must report the physical form(s) of the reportable chemical substance at the time it is reacted on-site to produce a different chemical substance. For each chemical substance at each site, the submitter must report as many physical forms as applicable from among the physical forms listed in this unit:

(A) Dry powder.
(B) Pellets or large crystals.
(C) Water- or solvent-wet solid.
(D) Other solid.
(E) Gas or vapor.
(F) Liquid.

(x) For the principal reporting year only, submitters must report the percentage, rounded off to the closest 10%, of total production volume of the reportable chemical substance, reported in response to paragraph (b)(3)(iii) of this section, that is associated with each physical form reported under paragraph (b)(3)(ix) of this section.

(4) *Chemical-specific information related to processing and use.* The following chemical-specific information must be reported for each reportable chemical substance manufactured (including imported) above the applicable production volume threshold, as described in this section. Persons subject to paragraph (b)(4) of this section must report the information described in paragraphs (b)(4)(i) and (b)(4)(ii) of this section for each reportable chemical substance at sites under their control and at sites that receive a reportable chemical substance from the submitter directly or indirectly (including through a broker/distributor, from a customer of the submitter, *etc.*). Information reported in response to this paragraph must be reported for the principal reporting year only and only to the extent that it is known to or reasonably ascertainable by the submitter. Information required to be reported under this paragraph is limited to domestic (*i.e.*, within the customs territory of the United States) processing and use activities. If information responsive to a given data requirement under this paragraph, including information in the form of an estimate, is not known or reasonably ascertainable, the submitter is not required to respond to the requirement.

(i) *Industrial processing and use information*—(A) A designation indicating the type of industrial processing or use operation(s) at each site that receives a reportable chemical substance from the submitter site directly or indirectly (whether the recipient site(s) are controlled by the submitter site or not). For each chemical substance, report the letters which correspond to the appropriate processing or use operation(s) listed in Table 6 of this paragraph. A particular designation may need to be reported more than once, to the extent that a submitter reports more than one sector (under paragraph (b)(4)(i)(B) of this section) that applies to a given designation under this paragraph.

TABLE 6—CODES FOR REPORTING TYPE OF INDUSTRIAL PROCESSING OR USE OPERATION

Designation	Operation
PC	Processing as a reactant.
PF	Processing—incorporation into formulation, mixture, or reaction product.
PA	Processing—incorporation into article.
PK	Processing—repackaging.
U	Use—non-incorporative activities.

(B) A code indicating the sector(s) that best describe the industrial activities associated with each industrial processing or use operation reported under paragraph (b)(4)(i)(A) of this section. For each chemical substance, report the code that corresponds to the appropriate sector(s) listed in Table 7 of this paragraph. A particular sector code may need to be reported more than once, to the extent that a submitter reports more than one industrial function code (under paragraph (b)(4)(i)(C) of this section) that applies to a given sector code under this paragraph.

TABLE 7—CODES FOR REPORTING INDUSTRIAL SECTORS

Code	Sector description
IS1	Agriculture, forestry, fishing, and hunting.
IS2	Oil and gas drilling, extraction, and support activities.
IS3	Mining (except oil and gas) and support activities.
IS4	Utilities.
IS5	Construction.
IS6	Food, beverage, and tobacco product manufacturing.
IS7	Textiles, apparel, and leather manufacturing.
IS8	Wood product manufacturing.
IS9	Paper manufacturing.
IS10	Printing and related support activities.
IS11	Petroleum refineries.
IS12	Asphalt paving, roofing, and coating materials manufacturing.
IS13	Petroleum lubricating oil and grease manufacturing.
IS14	All other petroleum and coal products manufacturing.
IS15	Petrochemical manufacturing.
IS16	Industrial gas manufacturing.
IS17	Synthetic dye and pigment manufacturing.
IS18	Carbon black manufacturing.
IS19	All other basic inorganic chemical manufacturing.
IS20	Cyclic crude and intermediate manufacturing.
IS21	All other basic organic chemical manufacturing.
IS22	Plastics material and resin manufacturing.
IS23	Synthetic rubber manufacturing.
IS24	Organic fiber manufacturing.
IS25	Pesticide, fertilizer, and other agricultural chemical manufacturing.
IS26	Pharmaceutical and medicine manufacturing.
IS27	Paint and coating manufacturing.
IS28	Adhesive manufacturing.
IS29	Soap, cleaning compound, and toilet preparation manufacturing.
IS30	Printing ink manufacturing.
IS31	Explosives manufacturing.
IS32	Custom compounding of purchased resins.
IS33	Photographic film, paper, plate, and chemical manufacturing.
IS34	All other chemical product and preparation manufacturing.

TABLE 7—CODES FOR REPORTING INDUSTRIAL SECTORS—Continued

Code	Sector description
IS35	Plastics product manufacturing.
IS36	Rubber product manufacturing.
IS37	Non-metallic mineral product manufacturing (includes cement, clay, concrete, glass, gypsum, lime, and other non-metallic mineral product manufacturing).
IS38	Primary metal manufacturing.
IS39	Fabricated metal product manufacturing.
IS40	Machinery manufacturing.
IS41	Computer and electronic product manufacturing.
IS42	Electrical equipment, appliance, and component manufacturing.
IS43	Transportation equipment manufacturing.
IS44	Furniture and related product manufacturing.
IS45	Miscellaneous manufacturing.
IS46	Wholesale and retail trade.
IS47	Services.
IS48	Other (requires additional information).

(C) For each sector reported under paragraph (b)(4)(i)(B) of this section, code(s) from Table 8 of this paragraph must be selected to designate the industrial function category(ies) that best represents the specific manner in which the chemical substance is used. A particular industrial function category may need to be reported more than once, to the extent that a submitter reports more than one industrial processing or use operation/sector combination (under paragraphs (b)(4)(i)(A) and (b)(4)(i)(B) of this section) that applies to a given industrial function category under this paragraph. If more than 10 unique combinations of industrial processing or use operations/sector/industrial function categories apply to a chemical substance, submitters need only report the 10 unique combinations for the chemical substance that cumulatively represent the largest percentage of the submitter's production volume for that chemical substance, measured by weight. If none of the listed industrial function categories accurately describes a use of a chemical substance, the category "Other" may be used, and must include a description of the use.

TABLE 8—CODES FOR REPORTING INDUSTRIAL FUNCTION CATEGORIES

Code	Category
U001	Abrasives.
U002	Adhesives and sealant chemicals.
U003	Adsorbents and absorbents.
U004	Agricultural chemicals (non-pesticidal).
U005	Anti-adhesive agents.
U006	Bleaching agents.
U007	Corrosion inhibitors and anti-scaling agents.
U008	Dyes.
U009	Fillers.
U010	Finishing agents.
U011	Flame retardants.
U012	Fuels and fuel additives.
U013	Functional fluids (closed systems).
U014	Functional fluids (open systems).
U015	Intermediates.
U016	Ion exchange agents.
U017	Lubricants and lubricant additives.
U018	Odor agents.
U019	Oxidizing/reducing agents.
U020	Photosensitive chemicals.
U021	Pigments.
U022	Plasticizers.
U023	Plating agents and surface treating agents.
U024	Process regulators.
U025	Processing aids, specific to petroleum production.
U026	Processing aids, not otherwise listed.
U027	Propellants and blowing agents.
U028	Solids separation agents.
U029	Solvents (for cleaning or degreasing).
U030	Solvents (which become part of product formulation or mixture).
U031	Surface active agents.
U032	Viscosity adjustors.
U033	Laboratory chemicals.
U034	Paint additives and coating additives not described by other categories.
U999	Other (specify).

(D) The estimated percentage, rounded off to the closest 10%, of total production volume of the reportable chemical substance associated with each combination of industrial processing or use operation, sector, and industrial function category. Where a particular combination of industrial processing or use operation, sector, and industrial function category accounts for less than 5% of the submitter's site's total production volume of a reportable chemical substance, the percentage must not be rounded off to 0% if the production volume attributable to that industrial processing or use operation, sector, and industrial function category combination is 25,000 lb (11,340 kg) or more during the reporting year. Instead, in such a case, submitters must report the percentage, rounded off to the closest 1%, of the submitter's site's total production volume of the reportable chemical substance associated with the particular combination of industrial processing or use operation, sector, and industrial function category.

(E) For each combination of industrial processing or use operation, sector, and industrial function category, the submitter must estimate the number of sites at which each reportable chemical substance is processed or used. For each combination associated with each chemical substance, the submitter must select from among the ranges of sites listed in Table 9 of this paragraph and report the corresponding code (i.e., S1 through S7):

TABLE 9—CODES FOR REPORTING NUMBERS OF SITES

Code	Range
S1	Fewer than 10 sites.
S2	At least 10 but fewer than 25 sites.
S3	At least 25 but fewer than 100 sites.
S4	At least 100 but fewer than 250 sites.
S5	At least 250 but fewer than 1,000 sites.
S6	At least 1,000 but fewer than 10,000 sites.
S7	At least 10,000 sites.

(F) For each combination of industrial processing or use operation, sector, and industrial function category, the submitter must estimate the number of workers reasonably likely to be exposed to each reportable chemical substance. For each combination associated with each chemical substance, the submitter must select from among the worker ranges listed in paragraph (b)(3)(ii) of this section and report the corresponding code (*i.e.*, W1 though W8).

(ii) *Consumer and commercial use information*—(A) Using the codes listed in Table 10 of this paragraph, submitters must designate the consumer and commercial product category or categories that best describe the consumer and commercial products in which each reportable chemical substance is used (whether the recipient site(s) are controlled by the submitter site or not). If more than 10 codes apply to a chemical substance, submitters need only report the 10 codes for the chemical substance that cumulatively represent the largest percentage of the submitter's production volume for that chemical, measured by weight. If none of the listed consumer and commercial product categories accurately describes the consumer and commercial products in which each reportable chemical substance is used, the category "Other" may be used, and must include a description of the use.

TABLE 10—CODES FOR REPORTING CONSUMER AND COMMERCIAL PRODUCT CATEGORIES

Code	Category
	Chemical Substances in Furnishing, Cleaning, Treatment Care Products
C101	Floor coverings.
C102	Foam seating and bedding products.
C103	Furniture and furnishings not covered elsewhere.
C104	Fabric, textile, and leather products not covered elsewhere.
C105	Cleaning and furnishing care products.
C106	Laundry and dishwashing products.
C107	Water treatment products.
C108	Personal care products.
C109	Air care products.
C110	Apparel and footwear care products.
	Chemical Substances in Construction, Paint, Electrical, and Metal Products
C201	Adhesives and sealants.
C202	Paints and coatings.
C203	Building/construction materials—wood and engineered wood products.
C204	Building/construction materials not covered elsewhere.
C205	Electrical and electronic products.
C206	Metal products not covered elsewhere.
C207	Batteries.
	Chemical Substances in Packaging, Paper, Plastic, Toys, Hobby Products
C301	Food packaging.
C302	Paper products.

TABLE 10—CODES FOR REPORTING CONSUMER AND COMMERCIAL PRODUCT CATEGORIES—Continued

Code	Category
C303	Plastic and rubber products not covered elsewhere.
C304	Toys, playground, and sporting equipment.
C305	Arts, crafts, and hobby materials.
C306	Ink, toner, and colorant products.
C307	Photographic supplies, film, and photochemicals.
Chemical Substances in Automotive, Fuel, Agriculture, Outdoor Use Products	
C401	Automotive care products.
C402	Lubricants and greases.
C403	Anti-freeze and de-icing products.
C404	Fuels and related products.
C405	Explosive materials.
C406	Agricultural products (non-pesticidal).
C407	Lawn and garden care products.
Chemical Substances in Products not Described by Other Codes	
C980	Non-TSCA use.
C909	Other (specify).

(B) An indication, within each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section, whether the use is a consumer or a commercial use.

(C) Submitters must determine, within each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section, whether any amount of each reportable chemical substance manufactured (including imported) by the submitter is present in (for example, a plasticizer chemical substance used to make pacifiers) or on (for example, as a component in the paint on a toy) any consumer products intended for use by children age 14 or younger, regardless of the concentration of the chemical substance remaining in or on the product. Submitters must select from the following options: The chemical substance is used in or on any consumer products intended for use by children, the chemical substance is not used in or on any consumer products intended for use by children, or information as to whether the chemical substance is used in or on any consumer products intended for use by children is not known to or reasonably ascertainable by the submitter.

(D) The estimated percentage, rounded off to the closest 10%, of the submitter's site's total production volume of the reportable chemical substance associated with each consumer and commercial product category. Where a particular consumer and commercial product category accounts for less than 5% of the total production volume of a reportable chemical substance, the percentage must not be rounded off to 0% if the production volume attributable to that commercial and consumer product category is 25,000 lb (11,340 kg) or more during the reporting year. Instead, in such a case, submitters must report the percentage, rounded off to the closest 1%, of the submitter's site's total production volume of the reportable chemical substance associated with the particular consumer and commercial product category.

(E) Where the reportable chemical substance is used in consumer or commercial products, the estimated typical maximum concentration, measured by weight, of the chemical substance in each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section. For each chemical substance in each commercial and consumer product category reported under paragraph (b)(4)(ii)(A) of this section, submitters must select from among the ranges of concentrations listed in Table 5 in paragraph (b)(3)(viii) of this section and report the corresponding code (i.e., M1 through M5).

(F) Where the reportable chemical substance is used in a commercial product, the submitter must estimate the number of commercial workers reasonably likely to be exposed to each reportable chemical substance. For each combination associated with each substance, the submitter must select from among the worker ranges listed in Table 4 in paragraph (b)(3)(vii) of this section and report the corresponding code (*i.e.*, W1 though W8).

§ 711.20 When to report.

All information reported to EPA in response to the requirements of this part must be submitted during an applicable submission period. For the 2012 IUR, the submission period is from February 1, 2012 to June 30, 2012. Subsequent recurring submission periods are from June 1 to September 30 at 4-year intervals, beginning in 2016. In each submission period, any person described in § 711.8 must report as described in this part.

§ 711.22 Duplicative reporting.

(a) *With regard to TSCA section 8(a) rules.* Any person subject to the requirements of this part who previously has complied with reporting requirements of a rule under TSCA section 8(a) by submitting the information described in § 711.15 for a chemical substance described in § 711.5 to EPA, and has done so within 1 year of the start of a submission period described in § 711.20, is not required to report again on the manufacture of that chemical substance at that site during that submission period.

(b) *With regard to importers.* This part requires that only one report be submitted on each import transaction involving a chemical substance described in § 711.5. When two or more persons are involved in a particular import transaction and each person meets the Agency's definition of "importer" as set forth in 40 CFR 704.3, they may determine among themselves who should submit the required report; if no report is submitted as required under this part, EPA will hold each such person liable for failure to report.

(c) *Toll manufacturers and persons contracting with a toll manufacturer.* This part requires that only one report per site be submitted on each chemical substance described in § 711.5. When a company contracts with a toll

manufacturer to manufacture a chemical substance, and each party meets the Agency's definition of "manufacturer" as set forth in § 711.3, they may determine among themselves who should submit the required report for that site. However, both the contracting company and the toll manufacturer are liable if no report is made.

§ 711.25 Recordkeeping requirements.

Each person who is subject to the reporting requirements of this part must retain records that document any information reported to EPA. Records relevant to reporting during a submission period must be retained for a period of 5 years beginning on the last day of the submission period. Submitters are encouraged to retain their records longer than 5 years to ensure that past records are available as a reference when new submissions are being generated.

§ 711.30 Confidentiality claims.

(a) *Confidentiality claims.* Any person submitting information under this part may assert a business confidentiality claim for the information at the time it is submitted. Any such confidentiality claims must be made at the time the information is submitted. Confidentiality claims cannot be made when a response is left blank or designated as not known or reasonably ascertainable. These claims will apply only to the information submitted with the claim. New confidentiality claims, if appropriate, must be asserted with regard to information submitted during a different submission period. Guidance for asserting confidentiality claims is provided in the instructions identified in § 711.35. Information claimed as confidential in accordance with this section will be treated and disclosed in accordance with the procedures in 40 CFR part 2.

(b) *Chemical identity.* A person may assert a claim of confidentiality for the chemical identity of a specific chemical substance only if the identity of that chemical substance is treated as confidential in the Master Inventory File as of the time the report is submitted for that chemical substance under this part. The following steps must be taken to assert a claim of confidentiality for the identity of a reportable chemical substance:

(1) The submitter must submit with the report detailed written answers to the following questions signed and dated by an authorized official.

(i) What harmful effects to your competitive position, if any, or to your supplier's competitive position, do you think would result from the identity of the chemical substance being disclosed in connection with reporting under this part? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the harmful effects?

(ii) How long should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(iii) Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential?

(iv) Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured or imported for a commercial purpose by anyone?

(v) Is the fact that the chemical substance is being manufactured (including imported) for a commercial purpose available to the public, for example in technical journals, libraries, or State, local, or Federal agency public files?

(vi) What measures have been taken to prevent undesired disclosure of the fact that the chemical substance is being manufactured (including imported) for a commercial purpose?

(vii) To what extent has the fact that this chemical substance is manufactured (including imported) for commercial purposes been revealed to others? What precautions have been taken regarding these disclosures? Have there been public disclosures or disclosures to competitors?

(viii) Does this particular chemical substance leave the site of manufacture (including import) in any form, *e.g.*, as product, effluent, emission? If so, what measures have been taken to guard against the discovery of its identity?

(ix) If the chemical substance leaves the site in a product that is available to the public or your competitors, can the chemical substance be identified by analysis of the product?

(x) For what purpose do you manufacture (including import) the chemical substance?

(xi) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, please attach copies of such determinations.

(2) If any of the information contained in the answers to the questions listed in paragraph (b)(1) of this section is asserted to contain confidential business information (CBI), the submitter must clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as "confidential business information," "proprietary," or "trade secret."

(c) *Site identity.* A submitter may assert a claim of confidentiality for a site only if the linkage of the site with a reportable chemical substance is confidential and not publicly available. The following steps must be taken to assert a claim of confidentiality for a site identity:

(1) The submitter must submit with the report detailed written answers to the following questions signed and dated by an authorized official:

(i) Has site information been linked with a chemical identity in any other Federal, State, or local reporting scheme? For example, is the chemical identity linked to a facility in a filing under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 311, namely through a Material Safety Data Sheet (MSDS)? If so, identify all such schemes. Was the linkage claimed as confidential in any of these instances?

(ii) What harmful effect, if any, to your competitive position do you think would result from the identity of the site and the chemical substance being disclosed in connection with reporting under this part? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the harmful effects?

(2) If any of the information contained in the answers to the questions listed in paragraph (c)(1) of this section is asserted to contain CBI, the submitter must clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as "confidential business information," "proprietary," or "trade secret."

(d) *Processing and use information.* A submitter may assert a claim of confidentiality for each data element required by § 711.15(b)(4) only if the linkage of the information with a reportable chemical substance is confidential and not publicly available. The following steps must be taken to assert a claim of confidentiality for each data element, individually, required by § 711.15(b)(4):

(1) The submitter must submit with the report detailed written answers to the following questions signed and dated by an authorized official:

(i) Is the identified use of this chemical substance publicly known? For example, is information on the use available in advertisements or other

marketing materials, professional journals or other similar materials, or in non-confidential mandatory or voluntary government filings or publications? Has your company ever provided use information on the chemical substance that was not claimed as confidential?

(ii) What harmful effect, if any, to your competitive position or to your customer's competitive position do you think would result from the information reported as required by § 711.15(b)(4) and the chemical substance being disclosed in connection with reporting under this part? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the substantial harmful effects?

(2) If any of the information contained in the answers to the questions listed in paragraph (d)(1) of this section is asserted to contain CBI, the submitter must clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as "confidential business information," "proprietary," or "trade secret."

(e) *No claim of confidentiality.* If no claim of confidentiality is indicated on Form U submitted to EPA under this part; if Form U lacks the certification required by § 711.15(b)(1); if confidentiality claim substantiation required under paragraphs (b), (c), and (d) of this section is not submitted with Form U; or if the identity of a chemical substance listed on the non-confidential portion of the Master Inventory File is claimed as confidential, EPA may make the information available to the public without further notice to the submitter.

§ 711.35 Electronic filing.

(a) You must use e-CDRweb to complete and submit Form U (EPA Form 7740–8). Submissions may only be made as set forth in this section.

(b) Submissions must be sent electronically to EPA via CDX.

(c) Access e-CDRweb and instructions, as follows:

(1) By Web site. Go to the EPA Inventory Update Reporting Internet homepage at *http://www.epa.gov/iur* and follow the appropriate links.

(2) *By phone or e-mail.* Contact the EPA TSCA Hotline at (202) 554–1404 or *TSCA-Hotline@epa.gov* for a CD–ROM containing the instructions.

[FR Doc. 2011–19922 Filed 8–15–11; 8:45 am]

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