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OFFICE OF THE FEDERAL REGISTER

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, March 13, 2012
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741-6008

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0881; Airspace Docket No. 11–AAL–18]

Amendment of Class E Airspace; Kwigillingok, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** of January 3, 2012 that amends Class E airspace at Kwigillingok Airport, Kwigillingok, AK. In that rule, errors were made in the geographic coordinates and legal description for Kwigillingok Airport. This action corrects these errors.

DATES: *Effective Date:* 0901 UTC, April 5, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Jeanette Roller, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4541.

SUPPLEMENTARY INFORMATION:

History

On January 3, 2012, a final rule for Airspace Docket No. 11–AAL–18, FAA Docket No. FAA–2011–0881 was published in the **Federal Register** (77 FR 6), amending controlled airspace at Kwigillingok Airport, AK. Subsequent to publication, an error was found in the latitude coordinate for Kwigillingok Airport, and the radius referencing Class E 700 foot airspace. This action corrects these errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description as published in the **Federal Register** on January 3, 2012 (77 FR 6), (FR Doc. 2011–33566), is corrected as follows:

§ 71.1 [Amended]

AAL AK E5 Kwigillingok, AK [Corrected]

■ On page 7, column 2, and line 50 of the legal description, remove "Lat. 59°32′35″ N.," and insert "Lat. 59°52′35″ N.," and on line 52 remove "within a 6.5-mile radius * * *" and insert "within a 6.6-mile radius * * *".

Issued in Seattle, Washington, on January 27, 2012.

Robert Henry,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–2764 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 606, 610, and 640

[Docket No. FDA–2003–N–0097; Formerly 2003N–0211]

Revisions to Labeling Requirements for Blood and Blood Components, Including Source Plasma; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of January 3, 2012. In the **Federal Register** of January 3, 2012, FDA published a final rule entitled "Revisions to Labeling Requirements for Blood and Blood Components, Including Source Plasma," which provided incorrect publication information regarding a 60-day notice that announced the availability of an opportunity for public comment on the proposed collection of certain information by FDA pertaining to the final rule. This document corrects this error. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion 60-day correction notice.

DATES: This rule is effective July 2, 2012.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 3208, Silver Spring, MD 20993–0002, (301) 796–9148.

SUPPLEMENTARY INFORMATION: In the FR Doc. 2011–33554, appearing on page 7 in the **Federal Register** of Tuesday, January 3, 2012 (77 FR 7), the following correction is made:

1. On page 15, in the third column, in the third full paragraph, the first sentence is corrected to read: "To comply with section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)), FDA published a notice of proposed collection of information on December 30, 2011." We are making this change because the notice of proposed collection inadvertently did not publish on January 3, 2012.

Dated: February 2, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–2828 Filed 2–7–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 543, 546, and 547

Definition of the Term "Financial, Material, or Technological Support" Under the Côte d'Ivoire, Darfur, and Democratic Republic of the Congo Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is amending the Côte d'Ivoire Sanctions Regulations, the Darfur Sanctions Regulations, and the Democratic Republic of the Congo Sanctions Regulations to add a definition of the term "financial, material, or technological support" as used in these regulations. Providing "financial, material, or technological support" for, *inter alia*, any person whose property and interests in property are blocked under those regulations constitutes one of the

criteria for designation as a person whose property and interests in property are blocked.

DATES: *Effective Date:* February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance and Evaluation, tel.: (202) 622–2490, Assistant Director for Licensing, tel.: (202) 622–2480, Assistant Director for Policy, tel.: (202) 622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: (202) 622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

OFAC administers the Côte d'Ivoire Sanctions Regulations, 31 CFR part 543 (the "CDISR"), the Darfur Sanctions Regulations, 31 CFR part 546 (the "DSR"), and the Democratic Republic of the Congo Sanctions Regulations, 31 CFR part 547 (the "DRCSR"), which implement Executive Order 13396 of February 7, 2006, "Blocking Property of Certain Persons Contributing to the Conflict in Côte d'Ivoire" (71 FR 7389, February 10, 2006) ("E.O. 13396"), Executive Order 13400 of April 26, 2006, "Blocking Property of Persons in Connection With the Conflict in Sudan's Darfur Region" (71 FR 25483, May 1, 2006) ("E.O. 13400"), and Executive Order 13413 of October 27, 2006, "Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo" (71 FR 64105, October 31, 2006) ("E.O. 13413"), respectively.

Providing "financial, material, or technological support" for the activities described in paragraphs (a)(2)(i) through (a)(2)(iv) of section 543.201 of the CDISR, paragraphs (a)(2)(i) through (a)(2)(vi) of section 546.201 of the DSR, and paragraphs (a)(2)(i) through (a)(2)(v) of section 547.201 of the DRCSR, or for any person whose property and interests in property are blocked under these regulations, constitutes one of the criteria in these regulations for designation as a person whose property and interests in property are blocked.

In particular, paragraph (a)(2)(v) of section 543.201 of the CDISR implements section 1(a)(ii)(E) of E.O. 13396 by blocking the property and interests in property of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(iv) of section 543.201 or any person whose property and interests in property are blocked pursuant to paragraph (a) of section 543.201.

Similarly, paragraph (a)(2)(vii) of section 546.201 of the DSR implements section 1(a)(ii)(G) of E.O. 13400 by blocking the property and interests in property of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(vi) of section 546.201 or any person whose property and interests in property are blocked pursuant to paragraph (a) of section 546.201.

Finally, paragraph (a)(2)(vi) of section 547.201 of the DRCSR implements section 1(a)(ii)(F) of E.O. 13413 by blocking the property and interests in property of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(v) of section 547.201 or any person whose property and interests in property are blocked pursuant to paragraph (a) of section 547.201.

OFAC today is amending the CDISR, the DSR, and the DRCSR, to define the term "financial, material, or technological support," as used in these regulations. New sections 543.313 in subpart C of the CDISR, 546.313 in subpart C of the DSR, and 547.313 in subpart C of the DRCSR define the term "financial, material, or technological support" to mean any property, tangible or intangible, and include a list of specific examples.

Public Participation

Because the amendment of 31 CFR part 543, 31 CFR part 546, and 31 CFR part 547 involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to 31 CFR part 543, 31 CFR part 546, and 31 CFR part 547 are contained in 31 CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 543

Administrative practice and procedure, Banking, Banks, Blocking of assets, Côte d'Ivoire, Credit, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Services.

31 CFR Part 546

Administrative practice and procedure, Banking, Banks, Blocking of assets, Credit, Darfur, Penalties, Reporting and recordkeeping requirements, Securities, Services, Sudan.

31 CFR Part 547

Administrative practice and procedure, Banking, Banks, Blocking of assets, Credit, Democratic Republic of the Congo, Penalties, Reporting and recordkeeping requirements, Securities, Services.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR parts 543, 546, and 547 as follows:

PART 543—CÔTE D'IVOIRE SANCTIONS REGULATIONS

■ 1. The authority citation for part 543 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13396, 71 FR 7389, 3 CFR, 2006 Comp., p. 209.

Subpart C—General Definitions

■ 2. Add new § 543.313 to subpart C to read as follows:

§ 543.313 Financial, material, or technological support.

The term *financial, material, or technological support*, as used in § 543.201(a)(2)(v) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. "Technologies" as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

PART 546—DARFUR SANCTIONS REGULATIONS

■ 3. The authority citation for part 546 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13400, 71 FR 25483, 3 CFR, 2006 Comp., p. 220.

Subpart C—General Definitions

■ 4. Add new § 546.313 to subpart C to read as follows:

§ 546.313 Financial, material, or technological support.

The term *financial, material, or technological support*, as used in § 546.201(a)(2)(vii) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. "Technologies" as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

PART 547—DEMOCRATIC REPUBLIC OF THE CONGO SANCTIONS REGULATIONS

■ 5. The authority citation for part 547 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13413, 71 FR 64105, 3 CFR, 2006 Comp., p. 247.

Subpart C—General Definitions

■ 6. Add new § 547.313 to subpart C to read as follows:

§ 547.313 Financial, material, or technological support.

The term *financial, material, or technological support*, as used in § 547.201(a)(2)(vi) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. "Technologies" as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

Dated: January 24, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–2814 Filed 2–7–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0013]

Drawbridge Operation Regulations; Connecticut River, Old Lyme, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Old Saybrook-Old Lyme RR Bridge, mile 3.4, across the Connecticut River at Old Lyme, Connecticut. The deviation is necessary to facilitate bridge maintenance. This deviation allows the bridge to remain in the closed position for three days.

DATES: This deviation is effective from 7 a.m. on March 5, 2012 through 11 p.m. on March 7, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0013 and are available online at *www.regulations.gov*, inserting USCG–2012–0013 in the "Keyword" 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 rule, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil*, or telephone (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Old Saybrook-Old Lyme RR Bridge at mile 3.4, across the Connecticut River at Old Lyme, Connecticut, has a vertical clearance in the closed position of 19 feet at mean high water and 22 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.205(b).

The owner of the bridge, National Passenger Railroad Corporation (Amtrak), requested a temporary deviation from the regulations to facilitate bridge maintenance by replacing the secondary reducer bearing.

Under this temporary deviation the Old Saybrook-Old Lyme RR Bridge may remain in the closed position from 7 a.m. on March 5, 2012 through 11 p.m. on March 7, 2012.

All known waterway users were notified and no objections were received.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 26, 2012.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2012–2787 Filed 2–7–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AN75

Schedule for Rating Disabilities; AL Amyloidosis (Primary Amyloidosis)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its Schedule for Rating Disabilities by updating the schedule of ratings for the hemic and lymphatic systems to include AL amyloidosis. This regulatory action is necessary to add AL amyloidosis as one of the disease conditions and establish criteria for disability evaluation to fully implement the decision by the Secretary of Veterans Affairs to grant presumptive service connection based on herbicide exposure for this disease. The intended effects are to provide consistency in disability ratings and to ease tracking of AL amyloidosis for statistical analysis.

DATES: *Effective Date:* This final rule is effective March 9, 2012.

Applicability Date: This final rule applies to an application for benefits that:

- Is received by VA on or after March 9, 2012;
- Was received by VA before March 9, 2012 but has not been decided by a VA regional office as of that date;
- Is appealed to the Board of Veterans' Appeals on or after March 9, 2012;
- Was appealed to the Board before March 9, 2012 but has not been decided by the Board as of that date; or
- Is pending before VA on or after March 9, 2012 because the Court of Appeals for Veterans Claims vacated a Board decision on the application and remanded it for readjudication.

FOR FURTHER INFORMATION CONTACT: Thomas J. Kniffen, Chief, Regulations Staff (211D), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–9700. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 22, 2010, VA published in the **Federal Register** (75 FR 65279) a proposed rule that would add AL amyloidosis to VA's Schedule for Rating Disabilities to update the schedule of ratings for the hemic and lymphatic systems, 38 CFR 4.117, by creating diagnostic code 7717. The schedule previously did not contain a diagnostic code for AL amyloidosis. As an unlisted condition, it has been rated by analogy to non-Hodgkin's lymphoma using the "built-up" diagnostic code 7799–7715. However, AL amyloidosis requires a set of evaluation criteria with a unique diagnostic code, to serve as a basis for disability rating, because the condition is not part of the group of diseases under the non-Hodgkin's lymphoma classification, but, rather, a disorder of the bone marrow characterized by the accumulation and deposition of abnormal, insoluble proteins called light chain amyloid proteins in any organ of the body, interfering with the structure and function of the organ. Additionally, adding the diagnostic code would establish criteria for disability evaluation to fully implement the decision by the Secretary of Veterans Affairs to grant presumptive service connection based on herbicide exposure for this disease. A final rule regarding that decision was published in the **Federal Register** at 74 FR 21258, which amended 38 CFR 3.309(e) by adding AL amyloidosis to the list of diseases associated with exposure to certain herbicide agents. For these reasons, VA proposed a regulation that would amend VA's Schedule of Rating Disabilities by adding rating guidance and a diagnostic code specifically for AL amyloidosis.

VA proposed diagnostic code 7717 for AL amyloidosis because it was the first available diagnostic code in the Hemic and Lymphatic Systems listed in § 4.117. VA proposed to assign a 100 percent rating because the disease is incurable and progressive, generally causing death in a few years. Providing a 100-percent evaluation in all cases would obviate the need to repeatedly reassess and reevaluate veterans with AL amyloidosis over a short period of time. Because of the poor prognosis, no follow-up examination will be required for re-evaluation of this disability rating. VA also proposed to refer to AL amyloidosis in diagnostic code 7717 as "primary amyloidosis," which is another common name for the same disease. VA also proposed to amend 38 CFR Part 4, Appendices A, B, and C to reflect the proposed addition of diagnostic code 7717 for AL amyloidosis to the rating schedule.

Comment in Response to Proposed Rule

A 60-day comment period ended December 21, 2010, and we received one comment from a member of the general public. The comment expressed support for the rule. We are not making any changes in the final rule based on this supportive comment.

As no further comments were received, we thus are making no changes to the proposed rule. Therefore, based on the rationale set forth in the proposed rule and this document, we are adopting the provisions of the proposed rule as a final rule with no changes.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," which requires review by the Office of Management and Budget (OMB), as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule could affect only VA beneficiaries and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are as follows: 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on February 2, 2012, for publication.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Dated: February 3, 2012.

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4 is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

Subpart B—Disability Ratings

§ 4.117 [Amended]

■ 2. In § 4.117, add diagnostic code 7717, immediately following the note at the end of diagnostic code 7716, to read as follows:

§ 4.117 Schedule of ratings—hemic and lymphatic systems.

	Rating
* * * * *	
7717 AL amyloidosis (primary amyloidosis)	100

■ 3. In Appendix A to part 4, under Sec. 4.117, add diagnostic code 7717 in numerical order (following diagnostic code number 7716) to the table to read as follows:

Appendix A to Part 4—Table of Amendments and Effective Dates Since 1946

Sec.	Diagnostic Code No.	
* * * * *		
4.117.		
* * * * *		
	7717	Added 3/9/2012.
* * * * *		

■ 4. In Appendix B to part 4 add diagnostic code 7717 to the table in numerical order (following the entry for diagnostic code number 7716) and its disability entry "AL amyloidosis (primary amyloidosis)" to read as follows:

Appendix B to Part 4—Numerical Index of Disabilities

Diagnostic Code No.	
THE HEMIC AND LYMPHATIC SYSTEMS	
* * * * *	
7717	AL amyloidosis (primary amyloidosis).
* * * * *	

■ 5. Appendix C to part 4 is amended by adding in alphabetical order (following "Agranulocytosis") a new entry "AL amyloidosis" and its diagnostic code number "7717" to read as follows:

Appendix C to Part 4—Alphabetical Index of Disabilities

	Diagnostic Code No.
* * * * *	
AL amyloidosis	7717
* * * * *	

[FR Doc. 2012–2883 Filed 2–7–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0084–201167(a); FRL–9628–2]

Approval and Promulgation of Implementation Plans; Alabama, Georgia, and Tennessee: Chattanooga; Particulate Matter 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory portion of the State Implementation Plan (SIP) revisions submitted by the States of Alabama on July 31, 2009, Georgia on October 27, 2009, and Tennessee on October 15, 2009. The emissions inventory is part of the tri-state Chattanooga, Alabama-Georgia-Tennessee, (hereafter referred to as "the Chattanooga Area" or "Area"). $PM_{2.5}$ attainment demonstrations that were submitted for the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective April 9, 2012 without further notice, unless EPA receives adverse comment by March 9, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0084, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.

4. *Mail:* "EPA–R04–OAR–2011–0084," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2011–0084. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *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 email comment directly to EPA without going through *www.regulations.gov*, your email 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.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 18, 1997 (62 FR 36852), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m^3) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 annual $PM_{2.5}$ NAAQS based upon air quality monitoring data for calendar years 2001–2003. These designations became effective on April 5, 2005. The Chattanooga Area (which is comprised of a portion of Jackson County in Alabama, Catoosa and Walker Counties in Georgia and Hamilton County in Tennessee) was designated nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. *See* 40 CFR 81.311.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP under title 1, part D of the CAA. This SIP must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable but no later than the date required by the CAA. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP to EPA. For the 1997 $PM_{2.5}$ NAAQS, these SIPs were due April 5, 2008. See 40 CFR 51.1002(a).

On July 31, 2009, October 27, 2009, and October 15, 2009, Alabama, Georgia and Tennessee (respectively) submitted attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 annual $PM_{2.5}$ NAAQS in the Chattanooga Area. On May 31, 2011 (76 FR 31239), EPA determined that the Chattanooga Area attained the 1997 annual average $PM_{2.5}$ NAAQS. The determination of attainment was based upon complete, quality-assured and certified ambient air monitoring data for the 2007–2009 period, showing that the Area had monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. *See* 40 CFR 51.1004(c).

On June 29, 2011, Georgia withdrew [1] its Chattanooga attainment plan as allowed by 40 CFR 51.1004(c); however, such withdrawal does not suspend the emissions inventory requirement found in CAA section 172(c)(3). Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. EPA is now approving the emissions inventory portion of the SIP revisions submitted on July 31, 2009, October 27, 2009 and October 15, 2009, by Alabama, Georgia and Tennessee (respectively), as required by section 172(c)(3).

II. Analysis of State Submittals

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. Alabama,

[1] Per phone conversation between Lynorae Benjamin (EPA Region 4) and Jimmy Johnson (Georgia Department of Natural Resources) on October 17, 2011, the withdrawal notice did not include the emissions inventory portion of the submittal.

Georgia and Tennessee selected 2002 as base year for their emissions inventory per 40 CFR 51.1008(b). Emissions contained in the Chattanooga emissions inventory cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. A detailed discussion of the emissions inventory development can be found in Section 4 of the Alabama submittal, Appendix H of the Georgia submittal, and Appendix 4 of the Tennessee submittal. A summary is also provided below.

The tables below provide a summary of the annual 2002 emissions of nitrogen oxides (NO_X), sulfur dioxide (SO_2) and $PM_{2.5}$.

TABLE 1—2002 ANNUAL EMISSIONS FOR THE CHATTANOOGA AREA (TONS)

County	NO_X	SO_2	$PM_{2.5}$
	Point sources		
Jackson, AL (partial)	26,337	44,080	933
Catoosa, GA	0	0	0
Walker, GA	45.7	203.1	1.7
Hamilton, TN	2,856	1,721	567
	Non-road sources		
Jackson, AL (partial)	14	5	1
Catoosa, GA	671.4	50.8	37.4
Walker, GA	269.1	21	19.2
Hamilton, TN	6,428	539	292
	Area sources		
Jackson, AL (partial)	3	17	12
Catoosa, GA	165.4	272.8	688.7
Walker, GA	417.4	763.9	1,040.6
Hamilton, TN	639	507	1,000
	Mobile sources		
Jackson, AL (partial)	7	6	0
Catoosa, GA	2,377.1	92.1	37.2
Walker, GA	1,698.7	71.1	29.3
Hamilton, TN	11,610	461	183

The 172(c)(3) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, nonroad mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also are used in the attainment demonstration modeling inventory. Such was the case in the development of the 2002 emissions inventory that was submitted in each State's attainment SIPs for this Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the States to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed for the different emissions source categories resulting from revisions and updates to the data. This resulted in the use of version G2 of the updated data to represent the point sources' emissions. Data from many databases, studies and models (e.g., Vehicle Miles Traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in these SIPs. The data were developed according to current EPA emissions inventory guidance "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations" (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees that the process used to develop these inventories was adequate to meet the requirements of CAA 172(c)(3) and the implementing regulations.

EPA has reviewed the emissions inventories from Alabama, Georgia and Tennessee, and finds that they are adequate for the purposes of meeting section 172(c)(3) emissions inventory requirement for the 1997 annual $PM_{2.5}$ standard. The emissions inventories are approvable because the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of the SIP revisions submitted by: the State of Alabama on July 31, 2009, the State of Georgia on October 27, 2009 and the State of Tennessee on October 15, 2009. This action is being taken pursuant to section 110 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective April 9, 2012 without further notice unless the Agency receives adverse comments by March 9, 2012.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a

subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 9, 2012 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

Dated: January 27, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

■ 2. Section 52.50(e) is amended by adding a new entry for "Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory" at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory.	Jackson County	7/31/09	2/8/12 [Insert citation of publication].	

Subpart L—Georgia

■ 2. Section 52.570(e), is amended by adding a new entry 29 to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
* * * * * * *			
29. Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory.	Catoosa and Walker Counties	10/27/09	2/8/12 [Insert citation of publication].

Subpart RR—Tennessee

■ 2. Section 52.2220(e) is amended by adding a new entry for "Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory" at the end of the table to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State effective date	EPA approval date	Explanation
* * * * * * *				
Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory.	Hamilton County	10/15/09	2/8/12 [Insert citation of publication].	

[FR Doc. 2012–2731 Filed 2–7–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2007–0573; FRL–9333–7]

Bacillus thuringiensis Cry2Ae Protein in Cotton; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* Cry2Ae protein in or on the food and feed commodities of cotton; cotton, undelinted seed; cotton, gin byproducts; cotton, forage; cotton, hay; cotton, hulls; cotton, meal; and cotton, refined oil, when used as a plant-incorporated protectant (PIP) in cotton. Bayer CropScience LP submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus thuringiensis* Cry2Ae protein in cotton under the FFDCA.

DATES: This regulation is effective February 8, 2012. Objections and requests for hearings must be received on or before April 9, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0573. 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., Confidential Business Information (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 Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8097; email address: *bacchus.shanaz@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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 person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 174 through the Government Printing Office's e-CFR site at *http://*

ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0573 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before April 9, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2007–0573, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 8, 2009 (74 FR 15969) (FRL–8407–6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 9F7514) by Bayer CropScience LP, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR part 174 be amended by establishing an exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* Cry2Ae insect control protein and the genetic material necessary for its production in or on all food commodities. This notice referenced a summary of the petition prepared by the petitioner, Bayer CropScience LP, which is available in the docket via *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance exemption and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *" Additionally, section 408(b)(2)(D) of FFDCA requires that EPA consider "available information concerning the cumulative effects of [a particular pesticide's] * * * residues and other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A. Product Characterization Overview

Bayer CropScience LP (Bayer) developed event GHB119 cotton (*Gossypium hirsutum*) to express *Bacillus thuringiensis* (*Bt*) Cry2Ae insecticidal protein (hereinafter referred to as Cry2Ae protein) for use as a PIP. Event GHB119 cotton was created by *Agrobacterium*-mediated transformation using plasmid pTEM12. This PIP provides event GHB119 cotton protection against feeding damage by lepidopteran insect larvae. The Organisation for Economic Cooperation and Development (OECD) Unique Identifier for event GHB119 is BCS–GH005–8. The *cry2Ae* gene was isolated from *Bt* subspecies *dakota* and its sequence modified for optimal expression in plants. The *cry2Ae* gene used in plasmid pTEM12 encodes Cry2Ae insecticidal crystal protein containing 631 amino acids with a molecular weight of 71 kilodaltons.

Bayer's event GHB119 cotton containing the Cry2Ae protein has been in experimental trials since September 1, 2008. The Cry2Ae protein in this cotton is intended to specifically control the larvae of cotton bollworm (CBW, *Helicoverpa zea),* pink bollworm (PBW, *Pectinophora gossypiella),* tobacco budworm (TBW, *Heliothis virescens),* and fall armyworm (FAW, *Spodoptera frugiperda).*

Event GHB119 cotton also expresses the Phosphinothricin Acetyltransferase (PAT) enzyme, which is exempt from the requirement of a tolerance when used as a PIP inert ingredient in all food commodities (40 CFR 174.522; April 25, 2007; 72 FR 20431; FRL–7742–1). This enzyme confers tolerance of the cotton plants to the herbicide, glufosinate.

B. Toxicological Profile of Bacillus thuringiensis Cry2Ae Protein

1. Acute oral toxicity. The toxicological profile of the protein was previously described in the **Federal Register** of September 10, 2008 (73 FR 52591; FRL–8380–1) to establish the temporary tolerance exemption for Cry2Ae protein residues in/on cotton food/feed commodities when used as a PIP in cotton (40 CFR 174.530). The petitioner has now requested that EPA establish a permanent exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* Cry2Ae protein in or on all food commodities. However, because the

submitted exposure analysis was based upon the expression of *Bacillus thuringiensis* Cry2Ae protein in cotton only and because no other uses of this protein as a PIP exist in connection with any other food or animal feed commodities, the final tolerance exemption for Cry2Ae protein residues that the Agency is granting varies from what the petitioner sought in as much as it is limited to residues of Cry2Ae protein in/on the cotton food/feed commodities specifically listed in the tolerance exemption regulatory text when Cry2Ae protein is used as a PIP in cotton. Further explanation is provided in Unit VII.C.

Consistent with section 408(b)(2)(D) of the FFDCA, EPA reviewed the available scientific data and other relevant information submitted in support of these actions and considered their validity, completeness and reliability, and the relationship of this information to human risk. The health effects data previously reviewed in support of the temporary tolerance exemption (Ref. 1) and additional data on the PIP in question that was previously evaluated in 2011 (Ref. 2) support the establishment of this permanent tolerance exemption for residues of Cry2Ae protein in/on the specifically noted cotton food/feed commodities when Cry2Ae protein is used as a PIP in cotton. When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Ref. 3.) An acute oral toxicity (Tier I) study in mice indicated that Cry2Ae protein is non-toxic to mammals (Master Record Identification (MRID) 47076902; Ref. 1). The acute oral toxicity of Cry2Ae protein was assessed by administering 2000 milligrams/kilogram (mg/kg) body weight of bacterially produced Cry2Ae protein test substance to five female mice by oral gavage. All treated animals gained weight and had no clinical signs or findings at necropsy related to the test material. The acute oral LD_{50} of the Cry2Ae protein is greater than 2,000 mg/kg body weight. (Refs. 1 and 2). These data demonstrate the safety of Cry2Ae protein at a level well above maximum possible parts per million (ppm) exposure levels that are reasonably anticipated in the cotton food/feed commodities covered by this tolerance exemption. Since no acute effects were shown to be caused by Cry2Ae protein, even at such relatively high dose levels, the Cry2Ae protein is not considered toxic. Furthermore, amino acid sequence comparisons showed no similarities between the Cry2Ae protein and known toxic proteins in protein databases that would raise a safety concern.

For microbial products, Tier II and III toxicity testing and residue data are required to verify and clarify any adverse effects observed during Tier I testing. Based on the lack of acute oral toxicity and the absence of adverse effects in the Tier I acute oral toxicity test in mice, EPA did not require Tier II and Tier III testing or residue data for Cry2Ae protein. This conclusion is similar to the Agency position regarding toxicity testing and the requirement of residue data for the microbial *Bacillus thuringiensis* products from which this PIP was derived (see 40 CFR 158.2130(d)(1)(i) and 158.2140(d)(7)).

2. Allergenicity assessment. Since Cry2Ae is a protein, allergenic sensitivities were considered. Currently, no definitive tests exist for determining the allergenic potential of novel proteins. Therefore, EPA uses a weight-of-evidence approach where the following factors are considered: Source of the trait; amino acid sequence similarity with known allergens; prevalence in food; and biochemical properties of the protein, including *in vitro* digestibility in simulated gastric fluid (SGF), and glycosylation of the protein as recommended by the *Codex Alimentarius Commission,* 2003 (Ref. 4).

Summary level findings of note from the allergenicity assessment for Cry2Ae protein (see Refs. 1, 2, and 5) include:

i. *Source of the trait. Bacillus thuringiensis,* the microorganism from which Cry2Ae protein is derived, is not considered to be a source of allergenic proteins (MRID 47125101 and 47641912, Refs. 6 and 7).

ii. *Amino acid sequence.* A comparison of the amino acid sequence of Cry2Ae protein with known allergens showed no overall sequence similarity meeting the standards for potential allergenicity (i.e., 35% identity over an 80 amino acid segment, and 100% sequence identity at the level of 8 amino acids, the smallest number of amino acids needed to cause an allergic response (MRIDs 47641908 and 47641909)). These results demonstrated that an individual exposed to the Cry2Ae protein in the diet would not be expected to experience an allergic reaction.

iii. *Prevalence in food.* Food allergens may be present at high concentrations (Ref. 4); however, protein expression level analyses showed that Cry2Ae protein in cotton is expressed at relatively low levels, in the ppm range (MRID 47641903). Furthermore, cotton products comprise only a small part of the human diet. Consequently, dietary exposure to Cry2Ae protein expressed in cotton would be extremely limited.

iv. *Digestibility.* Common food allergens tend to be resistant to degradation by acid and proteases (Ref. 4). The Cry2Ae protein was rapidly digested (within 30 seconds) in SGF containing pepsin at a pH of 1.2 (MRID 47125102). Because it is quickly degraded, dietary exposure to the whole protein is low. Consequently, the potential for sensitivity is low.

v. *Glycosylation.* Current scientific knowledge (Ref. 4) suggests that common food allergens may be glycosylated. The Cry2Ae protein expressed in cotton is not glycosylated (MRIDs 48471901 and 48480006), and so does not share this characteristic of some allergens.

All these preceding characteristics are part of the weight-of-evidence approach to determine that a protein is not expected to be an allergen. Considering all of the available information, EPA has concluded that the potential for Cry2Ae protein to be a food allergen is minimal.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

The Agency considered available information on the aggregate exposure levels of consumers (including major identifiable subgroups of consumers) to the PIP residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the PIP residue, and exposure from non-occupational sources.

As previously discussed (Unit III.), the oral toxicity studies conducted at a dose of 2,000 mg/kg testing showed no adverse effects for Cry2Ae protein, which was also shown to be rapidly digested *in vitro.* As previously stated, when Cry2Ae protein is used as a PIP in cotton, it is expressed at very low levels in the cotton. Although cotton is not a directly consumed food commodity, humans may be exposed to extremely low levels in the diet, potentially from ingestion of processed cotton products (e.g., cottonseed flour and oil). There is also a very remote possibility that Cry2Ae protein can get in the water supply the same way that other proteins in crop debris can

migrate into the ground, and, possibly, drinking water. Because such potential dietary exposure from cotton or drinking water is expected to be several orders of magnitude lower than the amounts of these proteins shown to have no toxicity in mammalian tests, EPA concludes that even negligible exposure via food and drinking water would present no harm, based on the lack of mammalian toxicity and allergenicity potential, and the rapid digestibility demonstrated in SGF for the PIP.

Non-occupational dermal and inhalation exposure is not expected, since the PIP is expressed and contained within cotton plant cells. The uses of this PIP are agricultural, so there would be no exposure to infants and children from residential, school or lawn use. The amino acid sequence homology of known aeroallergens was included in the amino acid comparison of Cry2Ae protein with known food allergens, and the results indicated that no respiratory allergencity would be expected if Cry2Ae protein were inhaled. The amino acid sequence results are discussed in more detail in Unit III.B.2.ii., above. It has been demonstrated that there is no evidence of occupationally related respiratory symptoms, based on a health survey on migrant workers, after exposure to *Bt* pesticides (Ref. 7). This observation is also relevant to the low potential for non-occupational inhalation exposure at levels far below those expected in occupationally exposed populations.

Taking all these data and information into consideration, EPA concludes that even if negligible aggregate exposure should occur it would present no harm to the U.S. human population.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found *Bacillus thuringiensis* Cry2Ae protein to share a common mechanism of toxicity with any other substances, and *Bacillus thuringiensis* Cry2Ae protein does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that *Bacillus thuringiensis* Cry2Ae protein does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

VI. Determination of Safety for U.S. Population, Infants and Children

To evaluate human risk, EPA considered the validity, completeness, and reliability of the available data from the studies cited in Unit III. regarding potential health effects for Cry2Ae protein. This evaluation included the low levels of expression of Cry2Ae proteins in cotton, as well as the lack of acute oral toxicity at high dose levels, heat stability, and *in vitro* digestibility of this protein. EPA also considered the minimal potential for allergenicity and the non-toxic source of the protein. Because of this lack of demonstrated mammalian toxicity, no protein residue chemistry data for Cry2Ae protein were required for a human health effects assessment.

Finally, and specifically with regards to infants and children, FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base, unless EPA determines that a different margin of safety will be safe for infants and children.

Based on its review and consideration of all the available information, as discussed in Units III. and IV. in this document, EPA concluded that there are no threshold effects of concern and, as a result, that an additional margin of safety for infants and children is unnecessary in this instance.

VII. Other Considerations

A. Analytical Enforcement Methodology

EPA has determined that an analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation. Nonetheless, Bayer has submitted an analytical method using enzyme-linked immunosorbent assay (ELISA) analyses for the qualitative detection of Cry2Ae proteins in cotton seed and cotton leaf. Although validation studies showed the test kit can detect Cry2Ae protein in cotton with sufficient accuracy, precision, and sensitivity, a method validation study conducted by an independent third party laboratory to evaluate the ELISA test kit's performance as the designated analytical method for the detection of Cry2Ae protein residues expressed in event GHB119 cotton is still required.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. In this context, EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for *Bacillus thuringiensis* Cry2Ae protein in cotton.

C. Revisions to Petitioned-for Tolerance Exemption

The petitioner requested that EPA establish a permanent exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* Cry2Ae protein in or on all food commodities. A temporary tolerance exemption was previously granted to Bayer for cotton food/feed commodities in association with an Experimental Use Permit, EPA Reg. No. 264–EUP–143 published on September 10, 2008 (73 FR 52591; FRL–8380–1). That exposure analysis and evaluation of additional data to establish this permanent exemption from tolerance are based upon the expression of *Bacillus thuringiensis* Cry2Ae protein in cotton. No other uses of this protein as a PIP in other food or animal feed commodities exist. As a result, there has been no effort to date to ensure that transformation events in plants other than cotton that express Cry2Ae protein have the same safety characteristics as those described in this evaluation.

Consequently, the final tolerance exemption for Cry2Ae protein residues that the Agency is granting varies from what the petitioner sought in as much as it is limited to residues of Cry2Ae protein in/on certain cotton food/feed commodities when Cry2Ae protein is used as a PIP in cotton.

VIII. Conclusions

EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Bacillus thuringiensis* Cry2Ae protein in cotton food/feed commodities. An exemption from the requirement of a tolerance is therefore established for residues of *Bacillus thuringiensis* Cry2Ae protein in or on the food or feed commodities of cotton; cotton, undelinted seed; cotton, gin byproducts; cotton, forage; cotton, hay; cotton, hulls; cotton, meal; and cotton, refined oil, when used as a PIP in these food and feed commodities.

IX. References

1. U.S. EPA BPPD memorandum (R. Edelstein to S. Bacchus), February 12, 2008.
2. U.S. EPA BPPD memorandum (A. Waggoner to S. Bacchus), November 30, 2011. Review of Product Characterization and Human Health Data in support for Sec. 3 Registration of Plant-Incorporated Protectant (PIP) event GHB119 cotton [EPA File Symbol No. 264–RNOL] expressing *Bacillus thuringiensis* Cry2Ae insecticidal protein and Combination PIP TwinLink® cotton [EPA File Symbol No. 264–RNOA], developed by conventional breeding of its constituent parental events GHB119 x T304–40, expressing *Bt* Cry2Ae and Cry1Ab proteins, respectively.
3. Sjoblad, Roy D. *et al.* (1992) Toxicological Considerations for Protein Components of Biological Pesticide Products *Regulatory Toxicology and Pharmacology* 15: pp. 3–9.
4. CAC. 2003. Alinorm 03/34: Joint FAO/WHO Food Standard Programme. Codex Alimentarius Commission, Twenty-Fifth Session, July 30, 2003. Rome, Italy. Appendix III: Guideline for Conduct of Food Safety Assessments of Foods Derived from Recombinant-DNA Plants; Appendix IV: Annex on Assessment of Possible Allergenicity. *CAC*, pp. 47–60.
5. **Federal Register**. September 10, 2008. (73 FR 52591) (FRL–8380–1). *Bacillus thuringiensis* Cry2Ae in Cotton: Temporary Exemption from the Requirement of a Tolerance.
6. Mendelsohn, M., *et al.* 2003. Are *Bt* Crops Safe? *Nat Biotechnol* 21(9): pp. 1003–1009.
7. Bernstein, I.L., *et al.* 1999. Immune responses in farm workers after exposure to *Bacillus thuringiensis* pesticides. *Environ Health Perspect.* 107(7): pp. 575–82.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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).

XI. 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 to 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 this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 174

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 26, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 174—[AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 346a and 371.

■ 2. Section 174.530 is revised to read as follows:

§ 174.530 Bacillus thuringiensis Cry2Ae protein in cotton; exemption from the requirement of a tolerance.

Residues of *Bacillus thuringiensis* Cry2Ae protein in or on the food and feed commodities of cotton; cotton, undelinted seed; cotton, gin byproducts; cotton, forage; cotton, hay; cotton, hulls; cotton, meal; and cotton, refined oil, are exempt from the requirement of a tolerance when *Bacillus thuringiensis* Cry2Ae protein is used as a plant-incorporated protectant in cotton.

[FR Doc. 2012–2595 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2011–0108; FRL–9330–6]

RIN 2070–AB27

Modification of Significant New Uses of Tris Carbamoyl Triazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing an amendment to the significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified generically as tris carbamoyl triazine, which was the subject to premanufacture notice (PMN) P–95–1098. This action requires persons who intend to manufacture, import, or process the chemical substance for a use that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity. EPA believes that this action is necessary because new uses of the chemical substance may be hazardous to human health. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This final rule is effective March 9, 2012.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2011–0108. 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., Confidential Business Information (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:* Tracey Klosterman, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–2209; email address: *klosterman.tracey@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill. 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email 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, import, process, or use the chemical substance identified generically as tris carbamoyl triazine (PMN P–95–1098). Potentially affected entities may include, but are not limited to:

Manufacturers, importers, or processors of the subject chemical substance (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. 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.**

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the agency taking?

EPA is finalizing an amendment to the SNUR for the chemical substance identified generically as tris carbamoyl triazine (PMN P–95–1098) codified at 40 CFR 721.9719. This final action requires persons who intend to manufacture, import, or process the chemical substance for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity.

This rule was proposed in the **Federal Register** issue of August 3, 2011 (76 FR 46678) (FRL–8878–3). EPA received no public comments in response to the proposal. Therefore, the Agency is issuing a final SNUR, as proposed that:

1. Identifies those forms of the PMN substance that are exempt from the provisions of the SNUR. These exemptions apply to quantities of the PMN substance after it has been completely reacted (cured).

2. Adds protection in the workplace requirements under § 721.63 for respiratory protection and alternative New Chemical Exposure Limit (NCEL) exposure monitoring to address the newly-identified potential risks from inhalation exposure in the workplace.

3. Revises the hazard communication requirements under § 721.72 to add the human health hazard and exposures and remove the environmental hazards and exposures.

4. Removes all release to water requirements under § 721.90.

5. Revises the recordkeeping requirements under § 721.125 to reflect the modified significant new uses.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors,

including the four bulleted TSCA section 5(a)(2) factors, listed in Unit IV. of this document. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Persons who must report are described in § 721.5.

III. Rationale for the Rule

During review of PMN P–95–1098, the chemical substance identified generically as tris carbamoyl triazine, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of this chemical substance. The basis for such findings is outlined in Unit II. of the proposed rule to amend this SNUR, included in the **Federal Register** issue of August 3, 2011 (76 FR 46678) and in the **Federal Register** document of August 20, 1998 (63 FR 44562) (FRL–5788–7). Based on these findings, a TSCA section 5(e) consent order requiring the use of appropriate exposure controls was negotiated with the PMN submitter. The SNUR provisions for this chemical substance were consistent with the provisions of the original TSCA section 5(e) consent order. The SNUR was promulgated pursuant to § 721.160.

After the review of test data submitted pursuant to the TSCA section 5(e) consent order for PMN P–95–1098 (see Unit II. of the proposed rule) and consideration of the factors included in TSCA section 5(a)(2) (see Unit IV. of this document), EPA determined that the chemical substance may pose an unreasonable risk to human health, but also that the finding that certain activities involving the substance may present an unreasonable risk to the environment was no longer supported. Consequently, EPA is finalizing this modification to the SNUR at § 721.9719 according to procedures in § 721.160 and § 721.185, so that SNUR provisions for this chemical substance remain consistent with the provisions of the TSCA section 5(e) consent order, as modified.

IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors. To determine what would constitute a significant new use for the chemical substance identified generically as tris carbamoyl triazine (PMN P–95–1098), EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

V. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

As discussed in the **Federal Register** issue of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed SNUR rather than as of the effective date of the final rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became effective, and then argue that the use was ongoing as of the effective date of the final rule.

Any persons who began commercial manufacture, import, or processing activities with the chemical substance identified generically as tris carbamoyl triazine (PMN P–95–1098), for any of the significant new uses designated in the proposed SNUR modification after the date of publication of the proposed SNUR, must stop that activity before the effective date of this final rule. Persons who ceased those activities will have to meet all SNUR notice requirements and wait until the end of the notice review period, including all extensions, before engaging in any activities designated as significant new uses.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of this final SNUR for those activities.

VI. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require the development of any particular test data before submission of a SNUN. There are two exceptions:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In this case, EPA recommends persons, before performing any testing, to consult with the Agency pertaining to protocol selection.

The recommended testing specified in Unit II.A. of the proposed rule may not be the only means of addressing the potential risks of the chemical substance. However, SNUNs submitted without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including

submission of test data on health and environmental effects as described in § 720.50. SNUNs must be on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

VIII. Economic Analysis

EPA evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substance during the development of the direct final rule. The Agency's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2011–0108.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866

This action modifies a SNUR for a chemical substance that is the subject of a PMN and TSCA section 5(e) consent order. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and 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**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

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 promulgation of this modified SNUR will not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is discussed in this unit. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." Because these uses are "new," based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a handful of notices per year. For example, the number of SNUNs was four in Federal fiscal year 2005, eight in FY 2006, six in FY 2007, eight in FY 2008, and seven in FY 2009. During this five-year period, three small entities submitted a SNUN. In addition the estimated reporting cost for submission of a SNUN (see Unit VIII.) is minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impacts of complying with this modified SNUR is not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** issue of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted 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 affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

E. Executive Order 13132

This action will not have a substantial direct effect on 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 Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This final rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This final rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this final rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, 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

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

X. 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 Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 1, 2012.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Amend § 721.9719 as follows:
■ a. Revise paragraphs (a)(1), (a)(2)(i), and (a)(2)(ii).
■ b. Remove paragraph (a)(2)(iii).
■ c. Revise paragraph (b)(1).
■ d. Remove paragraph (b)(3).

The revisions read as follows:

§ 721.9719 Tris carbamoyl triazine (generic).

(a) * * *

(1) The chemical substance identified generically as tris carbamoyl triazine (PMN P–95–1098) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the chemical substance after it has been completely reacted (cured).

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(v), (b) (concentration set at 1.0 percent), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 5. As an alternative to the respiratory requirements listed, a manufacturer, importer, or processor may choose to follow the new chemical exposure limit (NCEL) provisions listed in the Toxic Substances Control Act (TSCA) section 5(e) consent order for this substance. The NCEL is 1.0 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those contained in the corresponding section 5(e) consent order. The following NIOSH-certified respirators meet the requirements for § 721.63(a)(4):

(A) Air purifying, tight-fitting half-face respirator equipped with the appropriate combination cartridges; cartridges should be tested and approved for the gas/vapor substance (i.e., organic vapor, acid gas, or substance-specific cartridge) and should include a particulate filter (N100 if oil aerosols are absent, R100, or P100);

(B) Air purifying, tight-fitting full-face respirator equipped with the appropriate combination cartridges; cartridges should be tested and approved for the gas/vapor substance (i.e., organic vapor, acid gas, or substance-specific cartridge) and should include a particulate filter (N100 if oil aerosols are absent, R100, or P100);

(C) Powered air-purifying respirator equipped with loose-fitting hood or helmet equipped with a High Efficiency Particulate Air (HEPA) filter; powered air-purifying respirator equipped with tight-fitting facepiece (either half-face or full-face) equipped with a HEPA filter;

(D) Supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting face piece (either half-face or full-face).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(1)(iv), (g)(1)(ix), (g)(2)(ii), (g)(2)(iv), and (g)(5).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), and (h) are applicable to manufacturers, importers, and processors of this substance.

* * * * *

[FR Doc. 2012–2909 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 76

[MB Docket No. 07–42; FCC 11–119]

Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's rules contained in the Second Report and Order, FCC 11–119, pertaining to carriage of video programming vendors by multichannel video programming distributors (program carriage rules). This notice is consistent with the Secord Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The amendments to 47 CFR 1.221(h), 1.229(b)(3), 1.229(b)(4), 1.248(a), 1.248(b), 76.7(g)(2), 76.1302(c)(1), 76.1302(d), 76.1302(e)(1), and 76.1302(k) published at 76 FR 60652, September 29, 2011, are effective on February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Cathy Williams at (202) 418–2918, or email: *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on January 30, 2012, OMB approved, for a period of three years, the information collection requirements relating to the program carriage rules contained in the Commission's Second Report and Order, FCC 11–119, published at 76 FR 60652, September 29, 2011. The OMB Control Number is 3060–0888. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the

collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0888, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov*.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on January 30, 2012, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR parts 1 and 76.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0888.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0888.

OMB Approval Dates: January 30, 2012.

OMB Expiration Date: January 31, 2015.

Title: Section 1.221, Notice of hearing; appearances; Section 1.229 Motions to enlarge, change, or delete issues; Section 1.248 Prehearing conferences; hearing conferences; Section 76.7, Petition Procedures; Section 76.9, Confidentiality of Proprietary Information; Section 76.61, Dispute Concerning Carriage; Section 76.914, Revocation of Certification; Section 76.1001, Unfair Practices; Section 76.1003, Program Access Proceedings; Section 76.1302, Carriage Agreement Proceedings; Section 76.1513, Open Video Dispute Resolution.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 668 respondents; 668 responses.

Estimated Time per Response: 6.1 to 90.5 hours.

Frequency of Response: On occasion reporting requirement, Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i), 303(r), and 616 Communications Act of 1934, as amended.

Total Annual Burden: 32,264 hours.

Total Annual Cost: $2,705,400.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Needs and Uses: On August 1, 2011, the Commission adopted a Second Report and Order, Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage, MB Docket No. 07–42, FCC 11–119. In the Second Report and Order, the Commission took initial steps to improve the procedures for addressing program carriage complaints by: (i) Codifying in the Commission's rules what a program carriage complainant must demonstrate in its complaint to establish a prima facie case of a program carriage violation; (ii) providing the defendant with 60 days (rather than the current 30 days) to file an answer to a program carriage complaint; (iii) establishing deadlines for action by the Media Bureau and Administrative Law Judges ("ALJ") when acting on program carriage complaints; and (iv) establishing procedures for the Media Bureau's consideration of requests for a temporary standstill of the price, terms, and other conditions of an existing programming contract by a program carriage complainant seeking renewal of such a contract.

The following rule sections contain new or revised information collection requirements and the Commission received final approval for the requirements from the Office of Management and Budget (OMB) on January 30, 2012:

47 CFR 1.221(h) requires that, in a program carriage complaint proceeding filed pursuant to Section 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the Chief Administrative Law Judge that it elects not to pursue alternative dispute resolution pursuant to Section 76.7(g)(2) or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to Section 76.7(g)(2), within five calendar days after the parties inform the Chief Administrative Law Judge that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear on the date fixed for hearing and present evidence on the issues specified in the hearing designation order.

47 CFR 1.229(b)(3) requires that, in a program carriage complaint proceeding filed pursuant to Section 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, a motion to enlarge, change, or delete issues shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to Section 1.221(h), except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the **Federal Register**.

47 CFR 1.229(b)(4) provides that any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a), (b)(1), (b)(2), and (b)(3) of 47 CFR 1.229, shall set forth the reason why it was not possible to file the motion within the prescribed period.

47 CFR 1.248(a) provides that the initial prehearing conference as directed by the Commission shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to Section 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to Section 1.221(h) or within such shorter or longer period as the Commission may allow on motion or notice consistent with the public interest.

47 CFR 1.248(b) provides that the initial prehearing conference as directed by the presiding officer shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to Section 76.1302 that the Chief, Media Bureau

refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to Section 1.221(h) or within such shorter or longer period as the presiding officer may allow on motion or notice consistent with the public interest.

47 CFR 76.7(g)(2) provides that, in a proceeding initiated pursuant to Section 76.7 that is referred to an administrative law judge, the parties may elect to resolve the dispute through alternative dispute resolution procedures, or may proceed with an adjudicatory hearing, provided that the election shall be submitted in writing to the Commission and the Chief Administrative Law Judge.

47 CFR 76.1302(c)(1) provides that a program carriage complaint filed pursuant to Section 76.1302 must contain the following: whether the complainant is a multichannel video programming distributor or video programming vendor, and, in the case of a multichannel video programming distributor, identify the type of multichannel video programming distributor, the address and telephone number of the complainant, what type of multichannel video programming distributor the defendant is, and the address and telephone number of each defendant.

47 CFR 76.1302(d) sets forth the evidence that a program carriage complaint filed pursuant to Section 76.1302 must contain in order to establish a prima facie case of a violation of Section 76.1301.

47 CFR 76.1302(e)(1) provides that a multichannel video programming distributor upon whom a program carriage complaint filed pursuant to Section 76.1302 is served shall answer within sixty (60) days of service of the complaint, unless otherwise directed by the Commission.

47 CFR 76.1302(k) permits a program carriage complainant seeking renewal of an existing programming contract to file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint, to which the defendant will have the opportunity to respond within 10 days of service of the petition, unless otherwise directed by the Commission. To allow for sufficient time to consider the petition for temporary standstill prior to the expiration of the existing programming contract, the petition for temporary standstill and complaint shall be filed no later than thirty (30) days prior to the expiration of the existing programming contract.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–2910 Filed 2–7–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 11–192; RM–11646, DA 12–91]

Television Broadcasting Services; Lincoln, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission issues this final rule in response to a petition for rulemaking filed by Lincoln Broadcasting, LLC ("LBL"), licensee of KFXL–TV, channel 51, Lincoln, Nebraska, requesting the substitution of channel 15 for channel 51 at Lincoln. While the Commission instituted a freeze on the acceptance of full power television rulemaking petitions requesting channel substitutions in May 2011, it subsequently announced that it would lift the freeze to accept such petitions for rulemaking seeking to relocate from channel 51 pursuant to a voluntary relocation agreement with Lower 700 MHz A Block licensees. Furthermore, according to LBL, this channel substitution is in the public interest as it will increase the station's service area by almost 700, 000 persons.

DATES: This rule is effective March 9, 2012.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, *adrienne.denysyk@fcc.gov*, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 11–192, adopted January 26, 2012, and released January 27, 2012. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC, 20554. This document will also be available via ECFS (*http://fjallfoss.fcc.gov/ecfs/*). This document may 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) 478–3160 or via the company's Web site, *http://www.bcipweb.com*. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Final rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Nebraska, is amended by removing channel 51 and adding channel 15 at Lincoln.

[FR Doc. 2012–2748 Filed 2–7–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 242

[Docket No. FRA–2009–0035, Notice No. 3; 2130–AC36]

Conductor Certification

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to two petitions for reconsideration of FRA's final rule, published on November 9, 2011, which prescribed regulations for certification of conductors as required by the Rail Safety Improvement Act of 2008. In response to the petitions, this document amends and clarifies certain sections of the final rule.

DATES: *Effective Date:* The rule is effective February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Joseph D. Riley, Railroad Safety Specialist (OP)-Operating Crew Certification, U.S. Department of Transportation, Federal Railroad Administration, Mail Stop-25, Room W38–323, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: (202) 493–6318); or John Seguin, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, RCC–10, Mail Stop 10, West Building 3rd Floor, Room W31–217, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: (202) 493–6045).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to § 402 of the Rail Safety Improvement Act of 2008, Public Law 110–432, 122 Stat. 4884, (Oct. 16, 2008) (codified at 49 U.S.C. 20163) (hereinafter "RSIA") Congress required the Secretary of Transportation (Secretary) to prescribe regulations to establish a program requiring the certification of train conductors. The Secretary delegated this authority to the Federal Railroad Administrator. 49 CFR 1.49(oo).

On December 10, 2008, FRA's Railroad Safety Advisory Committee (RSAC) accepted a task statement (No. 08–07) and agreed to establish the RSAC Conductor Certification Working Group (Working Group) whose overall purpose was to recommend to the full committee regulations responsive to the RSIA's mandate concerning the certification of railroad conductors.

The Working Group reached consensus on all of its recommended regulatory provisions. On March 18, 2010, the Working Group presented its recommendations to the full RSAC for concurrence. All of the members of the full RSAC in attendance at the March meeting accepted the regulatory recommendations submitted by the Working Group. Thus, the Working Group's recommendations became the full RSAC's recommendations to FRA.

Based on the recommendations of the RSAC, FRA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on November 10, 2010. *See* 75 FR 69166. In the NPRM, FRA solicited public comment on the proposed rule and notified the public of its option to request a public hearing on the NPRM. In addition, FRA also invited comment on a number of specific issues related to the proposed requirements for the purpose of developing the final rule. In response to the NPRM, FRA received written comments as well as advice from the Working Group in preparing a final rule which was published on November 9, 2011. *See* 76 FR 69802.

Following publication of the final rule, parties filed petitions seeking FRA's reconsideration of the rule's requirements—the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the United Transportation Union (UTU) submitted a joint petition (BLET/UTU Petition) and the Association of American Railroads, the American Public Transportation Association, and the American Short Line and Regional Railroad Association submitted a joint petition (AAR Petition). These petitions principally relate to the following subject areas: the implementation dates; 49 CFR part 217 and 218 testing; conductor assistants on main track; and the appeals process. In addition to the issues raised in the petitions, clarification of the final rule is needed with respect to the applicability of the rule to those persons who perform what have traditionally been known as hostler assignments.

This document responds to all the issues raised in the petitions for reconsideration and amends and clarifies certain sections of the final rule. The amendments contained in this document generally clarify the requirements contained in the final rule or allow for greater flexibility in complying with the rule, and are within the scope of the issues and options discussed, considered, or raised in the NPRM.

II. Issues Raised by Petitions for Reconsideration

A. Implementation Dates

The AAR Petition requests that the implementation dates in the final rule be extended because: (1) They are inconsistent with the anticipated timeline provided in the NPRM; (2) they are inconsistent with the timing of railroad training; and (3) they do not permit enough time for training, testing and evaluating conductors. In the NPRM, FRA stated that it was proposing an effective date of January 1, 2012 for the final rule "based on FRA's anticipation that the final rule will be published in early 2011." Since the final rule was published in late 2011 (about 6 months after the anticipated publication date), the Petition argues that the implementation dates should be adjusted accordingly.

According to the Petition, railroads typically formulate their training programs in the fall and their trainers have to be prepared at the beginning of the year. The implementation dates in the final rule do not permit sufficient time to implement their training programs or to make pertinent changes to their IT systems used to comply with the regulations. According to the Petition, it takes an average of 6 months to train a conductor. However, the period between the likeliest program approval date (*i.e.*, April 29) and the date that Class I's must test and evaluate conductors (*i.e.*, June 1) leaves only one month to test and evaluate conductors. Further, the Petition notes that FRA has adjusted implementation dates of previous rulemakings to comport with railroad training schedules (*e.g.*, Part 218).

FRA acknowledges that the final rule was published later than anticipated. Therefore, to provide a reasonable amount of time for the railroads to implement their training programs, FRA is retaining the current effective date of the final rule (*i.e.*, January 1, 2012) but is extending the implementation dates by 6 months. For the convenience of interested parties, a table is provided below showing the changes to the implementation dates:

Event	Final rule implementation dates	Amended implementation dates
Effective Date	Jan. 1, 2012	Jan. 1, 2012.

Event	Final rule implementation dates	Amended implementation dates
Designate and issue certs. to all authorized as of Jan. 1, 2012 [242.105(a)].	*By* March 1, 2012	*By* Sept. 1, 2012.
Grandfather and issue certs. for all authorized between Jan. 1 and June 1, 2012 (Class I & II) or Oct. 1, 2012 (Class III) [242.105(b)].	*After* March 1, 2012	*After* Sept. 1, 2012.
Maintain a list of each designated conductor [242.205(a)].	*After* March 1, 2012	*After* Sept. 1, 2012.
Class I & II submit program to FRA [242.103(a)(1)]	*By* March 30, 2012	*By* Sept. 30, 2012.
Class I & II must have approved program [242.101(a)]	*By* June 1, 2012	*By* Dec. 1, 2012.
Class III submit program to FRA [242.103(a)(2)]	*By* July 30, 2012	*By* Jan. 31, 2013.
Class III must have approved program [242.101(a)]	*By* Oct. 1, 2012	*By* April 1, 2013.
Program approval [242.103(g)]	Program considered approved and may be implemented 30 days after required filing date.	Program considered approved and may be implemented 30 days after required filing date.
Class I & II must subpart B test [242.105(d)]	*After* June 1, 2012	*After* Dec. 1, 2012.
Class III must subpart B test [242.105(e)]	*After* Oct. 1, 2012	*After* April 1, 2013.
Annual program review [242.215(a)]	Beginning in 2013	Beginning in 2014.

B. Part 217 and 218 Testing

The AAR Petition requests that FRA clarify that testing under 49 CFR part 217 and 218 is not affected by the final rule. In the preamble to the final rule, FRA noted that a railroad could not test and evaluate a designated conductor or conductor candidate under subpart B of the final rule until the railroad had a certification program approved by FRA. According to the AAR Petition, that prohibition combined with § 242.123(c), which requires that each conductor shall be given at least one unannounced compliance test annually in accordance with parts 217 and 218, presents a potential timing issue that may leave railroads with insufficient time to conduct part 217/218 testing.

FRA acknowledges that a railroad that follows the schedule provided in the final rule may not have sufficient time to conduct part 217/218 testing pursuant to the final rule if it is not permitted to test prior to having an approved program in place. Moreover, parts 217 and 218 provide testing procedures that railroads must follow irrespective of whether they have a conductor certification program in place. Thus, FRA is clarifying the final rule to indicate that part 217/218 testing is not covered by the final rule's statement regarding testing prior to the approval of a program.

C. Conductor Assistant

The AAR Petition requests that § 242.301(c) of the final rule be amended to remove the requirement for a non-crewmember to serve as a conductor's assistant on main track where the conductor lacks territorial qualification on the main track physical characteristics. The AAR Petition asserts that the final rule should be amended because: (1) The changes regarding the assistant were made at the final rule stage and were not what was agreed to at the RSAC; (2) the rule is inconsistent with the position that UTU had taken outside of the regulatory process (*i.e.*, a 2010 agreement with CSX which purportedly permits an engineer, who is a member of the crew, to serve as an assistant for a conductor unfamiliar with the territory over which the train is operating); (3) FRA failed to conduct a cost-benefit analysis of its prohibition on the engineer serving as an assistant on main track which will cost the industry millions of dollars annually by requiring an extra person in the cab to serve as a conductor or by requiring the industry to take conductors on "pilot trips"; (4) the rule could adversely affect passenger railroad finances and services because of delays, cancelations, train evacuations, and platform crowding if no employee is available who is not a member of the crew to serve as the conductor's assistant; and (5) FRA failed to demonstrate measurable safety benefits of the rule and no safety benefit exists. The AAR petition asserts that it is "particularly egregious" to prohibit the engineer from serving as the assistant to the conductor in circumstances where the conductor was previously qualified over the territory but whose qualification has lapsed.

Although the final rule modified the requirements proposed in the NPRM regarding assistants on main track, FRA believes that safety concerns (*i.e.*, the safe operation of a train in difficult operating environments on main track combined with the need to maintain the roles of each crewmember in those situations) necessitate the need to modify those requirements. A conductor, who has never been qualified on the physical characteristics of the territory, would not have the knowledge to be able to fulfill his or her role on the train and an assigned crew member serving as an assistant would be distracted from their other duties and may not be able to provide a check on the judgments of the other crew members. In addition, there are some unique situations on main track which highlight the need for an assistant that is familiar with the territory and can provide a check on the engineer with respect to safe operation of the train over the territory. For example, terminals that serve as multiple hubs where conductors can be sent in multiple directions over main track where they are required to negotiate multiple signal systems each governed by a different set of rules.

The conductor plays a key role in rail operations by, *inter alia*, determining the train consist, ensuring compliance with hazardous materials placement and documentation requirements, calling or acknowledging signals, receiving mandatory directives, conducting frequent briefings with the locomotive engineer to ensure compliance with movement restrictions, intervening through use of the conductor's brake valve if the engineer is unresponsive or incapacitated, and using their knowledge of the operating environment to identify safety concerns and resolve them. *See, e.g.*, General Code of Operating Rules section 1.47 and NORAC Operating Rules rule 94 and 941. Within this framework, a conductor must remain able to provide a check on the judgments made by another crew member.

Each railroad is free, within the constraints of collective bargaining agreements as to staffing, and subject to oversight by FRA with respect to safety, to determine its operating rules and assignment of responsibilities to its personnel. Nevertheless, FRA remains concerned that railroad operating crews function as a team, discharging their responsibilities on the basis of adequate information and using their knowledge

of the operating environment to identify safety concerns and resolve them. Within this framework, each crew member must remain able to respectfully and helpfully question a judgment by another crew member. This general approach is known as "crew resource management" (CRM), a concept perfected in aviation and urgently pressed on the railroad industry by the National Transportation Safety Board and the FRA. *See* NTSB Recommendation R–99–13 (July 29, 1999). Major railroads have included CRM in their training programs.

It is particularly important that a conductor have an assistant who is not distracted either by or from their other duties now that conductors may be decertified for actions they take or fail to take during the operation of a train. Indeed, this rulemaking is holding conductors to a higher level of accountability and requiring more severe consequences for failing to meet that level than they have ever faced before. Accordingly, principles of fairness and safety dictate that conductors be provided all the tools, knowledge, and oversight needed to meet this higher level of accountability. Providing the proper tools, knowledge, and oversight should, in turn, create an even safer operating environment particularly where an assigned crew member is serving as the assistant. A more knowledgeable conductor will likely allow an assistant to focus less on assisting the conductor and more on their other duties. Similarly, in instances where a conductor is less familiar with a territory, there is a greater necessity to provide that conductor with an assistant that is not distracted by other duties.

Principles of fairness and safety also dictate that an engineer, who is directly responsible for operating the train and also subject to decertification, not be required to act as an assistant to a conductor, who possesses insufficient knowledge of the territory. Requiring an engineer to provide extensive assistance to a conductor could potentially result in that engineer being distracted from other safety critical duties. FRA's decision on this issue must be based on safety considerations and should not be impacted by what a railroad and representatives of its employees may have agreed to in the past, particularly when the level of accountability was not as high as it is now.

Although the AAR Petition asserts that the final rule's prohibition on an assigned locomotive engineer serving as a conductor's assistant on main track where the conductor lacks territorial qualification on the main track physical characteristics will "cost the industry millions of dollar[s] annually" by requiring an extra person in the cab or by requiring railroads to take conductors on "pilot trips," the Petition does not provide evidentiary support for its assertion or an explanation of how it calculated the additional cost it claims the rule will require. Without this information, FRA cannot compare or respond to the cost claim.[1] However, contrary to the AAR Petition's assertion, FRA did, in fact, conduct an economic analysis of the final rule's prohibition on a locomotive engineer serving as a conductor's assistant on main track and included additional costs in its analysis of the final rule. In the final rule's Regulatory Impact Analysis, a copy of which was placed in the docket on *http://www.regulations.gov*, FRA explained that:

> In the final rule, FRA modified the requirements in paragraph (c), and added paragraph (e). The cost estimates for the other requirements above still exist and are appropriate. While the modifications to paragraph (c) will impose additional burdens, FRA believes the exceptions in paragraph (e) along with the on-the-job training requirements of this final rule will serve to minimize this burden. FRA believes that the situation in which an assistant is required is most likely to occur on Class I railroads and occasionally on Class II railroads. When this situation does occur FRA is assuming it would require an additional railroad employee for approximately eight hours. FRA estimates that this situation will occur an average of 10 times per week for the railroad industry. The annual cost for this is estimated to be $180,000. For a 20-year period, this is estimated to total $3.4 million, and the PV is $1.7 million.

Final Rule Regulatory Impact Analysis (Oct. 19, 2011) at 30. Further, the analysis provided FRA's calculation of the cost: "Calculation: (10 occurrences/week) * (8 hours) * ($43.20 wage) * (52 weeks) = $179,712 per year which is rounded up to $180,000." *Id.* at note 56. Absent verifiable evidence to the contrary, FRA continues to believe that this situation should be a relatively rare occurrence which can be largely avoided by the railroads simply by keeping their conductors trained and qualified.

FRA recognizes the passenger railroads' concerns regarding the potential economic and service impact of prohibiting a crewmember from serving as an assistant in certain situations, but notes that passenger railroads have successfully dealt with a similar issue with locomotive engineers under part 240 for many years without excessive financial burdens or service delays being incurred.[2] Moreover, FRA expects this situation to be a relatively rare occurrence for passenger railroads.[3]

While FRA declines to revise the requirement in the final rule requiring a non-crewmember to serve as a conductor's assistant on main track where the conductor has never been qualified on the main track physical characteristics of the territory over which he or she is to serve as a conductor, FRA believes that it can provide some flexibility to the railroads with respect to conductors whose qualifications have been expired for one year or less and who have regularly traversed the territory prior to the expiration of the qualifications. In that scenario, the safety concerns are reduced because it is likely that the assistant would need only to provide minimal assistance to the conductor due to the conductor's familiarity with the physical characteristics of the territory.

For a conductor who was previously qualified on main track physical characteristics of the territory over which he or she is to serve as a conductor, but whose qualification has been expired for one year or less and who regularly traversed the territory prior to the expiration of the qualification, this response provides that the assistant may be any person, including an assigned crewmember, who meets the territorial qualification requirements for main track physical characteristics. For a conductor whose qualification has been expired for one year or less but who has not regularly traversed the territory prior to the expiration of the qualification, or a conductor whose territorial qualification on main track has been expired for more

[1] The only specific cost claim made in the AAR Petition is that the Union Pacific Railroad (UP) estimates that it would cost an additional $8.5 million annually for the UP alone to conduct the additional pilot trips for conductors. However, the AAR Petition provides absolutely no information about how that number was derived. For example, there is no indication of how many pilot trips would be required, how many employees would be involved in the trips or the wage rate of those employees, or how much time the trips would take. The AAR Petition also fails to provide information as to whether UP's estimate would apply to every railroad or whether the estimate would differ for each class of railroad. Without such information, it is impossible for FRA to respond to the cost claims in the AAR Petition or to even compare its own economic analysis with the claims made in the AAR Petition.

[2] With certain exceptions, § 240.231 prohibits an assigned crew member from serving as an assistant to a locomotive engineer who lacks qualification on the physical characteristics of the territory over which they are to operate.

[3] Similar to the AAR Petition's claims regarding pilot trip costs, the Petition provides no information or evidentiary support as to what "financial burden" passenger railroads may face. Without such information, it is again impossible for FRA to respond to the financial claims in the AAR Petition.

than a year, this response provides that the assistant may be any person, including an assigned crewmember other than the locomotive engineer so long as serving as the assistant would not conflict with that crewmember's other safety sensitive duties, who meets the territorial qualification requirements for main track physical characteristics.

In order to determine when a conductor's territorial qualification has expired and whether the conductor regularly traversed the territory prior to the expiration of the qualification, FRA is requiring that each railroad indicate in its program how long a conductor must be absent from a territory before the conductor's qualification on the physical characteristics of the territory expires and the number of times a person must pass over a territory per year to be considered to have "regularly traversed" a territory for purposes of § 242.301(c). FRA believes that those requirements will help ensure that conductors travel over a territory with sufficient regularity to maintain knowledge of the physical characteristics. Further discussion of those requirements is contained below in the analysis of the revisions to Appendix B of part 242.

D. Appeals Process

The BLET/UTU Petition requests reconsideration of FRA's decision not to adopt the BLET/UTU's proposal for changing the appeals process provided in §§ 242.501, 503, 505, 507, 509 and 511 of the final rule. The proposal would eliminate appeals to an Administrative Hearing Officer (AHO), except in cases where the Operating Crew Review Board (OCRB) or a party wants a specific issue developed further, require the OCRB to grant a decision if any procedural error by the railroad is shown, add an attorney as a member to the OCRB, eliminate the opportunity for parties to appeal FRA decisions to the Administrator, and make the OCRB decision final agency action. According to the BLET/UTU Petition, the proposal will make the appeals process more balanced, efficient, and less costly.

FRA declines to adopt BLET/UTU's proposed revisions to the appeals process. The proposed appeals process was thoroughly discussed during the Working Group meetings and most of BLET/UTU's suggestions were rejected at those meetings. As explained to the Working Group and indicated in the preamble to the final rule, due process requirements and issues concerning trials *de novo* necessitate that FRA retain the OCRB and AHO as distinct levels of review. Moreover, despite BLET/UTU's assertions to the contrary, FRA continues to believe that the BLET/UTU proposal would result in a significant increase in the number of cases/issues handled by the AHO and the federal courts thereby causing cases to take much longer to resolve and involve increased costs for all parties involved.

Although FRA is not adopting BLET/UTU's proposals, FRA is committed to handling engineer and conductor certification cases as quickly as possible and is taking steps to make the appeals process more efficient. Over the past two years, the average length of time for the AHO to render a decision in a locomotive engineer case under part 240 has dropped by 6 months. One of the steps FRA has taken is to revise the requirements proposed in the NPRM to require petitions to be submitted to the Docket Clerk of DOT rather than FRA's Docket Clerk. With that change, the process for submitting petitions to the OCRB will parallel the process for requesting an administrative hearing under part 240 and § 242.507. FRA believes this change will make the process more efficient as DOT Dockets is better equipped to process and store these types of filings.

III. Clarifying Amendment

Hostler-Type Assignments

Following the publication of the final rule, it was brought to FRA's attention that the final rule may be unclear regarding the applicability of the rule to those persons who perform what have traditionally been known as hostler assignments. Those assignments typically involve moving locomotives within the confines of a locomotive servicing area or car repair shop area.

FRA did not intend for a person performing those types of assignments to be covered by the requirements of part 242. As FRA stated in the section-by-section analysis of the Final Rule, "[a]ll other train or yard crew members (*e.g.*, assistant conductors, brakemen, hostlers, trainmen, switchmen, utility persons, flagmen, yard helpers, and others who might have different job titles but perform similar duties and are not in charge of a train or yard crew) do not fall within the definition of 'conductor' for purposes of this rule." 76 FR 69815. To ensure that interested parties are clear on this issue, FRA states in the section-by-section analysis below that a person who moves a locomotive or a group of locomotives within the confines of a locomotive repair or servicing area as provided for in 49 CFR 218.5 and 218.29(a)(1) or moves a locomotive or group of locomotives for distances of less than 100 feet and this incidental movement of a locomotive or locomotives is for inspection or maintenance purposes is not subject to the requirements of part 242.

IV. Section-by-Section Analysis

FRA is modifying certain provisions of 49 CFR part 242 in response to the petitions for reconsideration and issues raised following the publication of the final rule. This section of the preamble explains the changes made to the final rule. FRA respectfully refers interested parties to the agency's Section-by-Section Analysis of the final rule and the Notice of Proposed Rulemaking for a full discussion of those aspects of the rulemaking that remain unchanged. *See* 76 FR 69802 (Nov. 9, 2011) and 75 FR 69166 (Nov. 10, 2010).

Subpart A—General

Section 242.7 Definitions

While FRA is not modifying the definition of "conductor" in the final rule, FRA is clarifying its preamble discussion in the final rule's Section-by-Section Analysis regarding the applicability of part 242 to railroad employees who perform what have traditionally been known as hostler assignments. FRA did not intend for a person performing those types of assignments to be covered by the requirements of part 242. Accordingly, interested parties should note that a person who moves a locomotive or a group of locomotives within the confines of a locomotive repair or servicing area as provided for in 49 CFR 218.5 and 218.29(a)(1) or moves a locomotive or group of locomotives for distances of less than 100 feet and this incidental movement of a locomotive or locomotives is for inspection or maintenance purposes is not subject to the requirements of part 242.

Subpart B—Program and Eligibility Requirements

Section 242.103 Approval of Design of Individual Railroad Programs by FRA

FRA is amending paragraphs (a)(1) and (a)(2) of this section to delay the date by which the railroads will have to submit their certification programs to FRA. The final rule required a Class I railroad (including the National Railroad Passenger Corporation), Class II railroad, or railroad providing commuter service to submit a program to FRA no later than March 30, 2012 while a Class III railroad was required to submit a program by January 31, 2013. As indicated in the preamble that date is being pushed back 6 months.

Accordingly, Class I, II, Amtrak, and commuter railroads must now submit their programs by September 30, 2012 while Class III railroads must submit a program by January 31, 2013.

Interested parties should note that, except for testing under parts 217 and 218 required by section 242.123, railroads may not test and evaluate a designated conductor or conductor candidate under subpart B of this rule until they have a certification program approved by the FRA pursuant to section 242.103.

Section 242.105 Schedule for implementation

This section contains the timetable for implementation of the rule. FRA is amending paragraphs (a), (b), (d), and (e) of this section to delay the date by which the railroads must designate conductors and issue certificates to those designated conductors and the date by which railroads must test and evaluate non-designated conductor candidates pursuant to subpart B of the rule. As indicated in the preamble, those dates are being pushed back 6 months. Accordingly, by September 1, 2012, all railroads must designate and issue certificates to all persons authorized by the railroads to perform the duties of a conductor as of January 1, 2012. After September 1, 2012, Class I, II, Amtrak, and commuter railroads must designate and issue certificates to all persons authorized to perform as conductors between January 1, 2012, and December 1, 2012. For the Class III railroads, after September 1, 2012, Class I, II, they must designate and issue certificates to all persons authorized to perform as conductors between January 1, 2012, and April 1, 2013.

With respect to the dates by which railroads may not initially certify or recertify a person as a conductor unless that person has been tested and evaluated in accordance with subpart B of the rule, the date for the Class I, II, Amtrak, and commuter railroads is now "after December 1, 2012" while the date for the Class III railroads is now "after April 1, 2013."

Interested parties should note that, except for testing under parts 217 and 218 required by section 242.123, railroads may not test and evaluate a designated conductor or conductor candidate under subpart B of this rule until they have a certification program approved by the FRA pursuant to section 242.103.

Interested parties should also note that another section of this rule (*i.e.*, 242.101) contains implementation dates which are derived from the dates provided this section. Thus, while the regulatory text for section 242.101 is not being amended, the changes to the dates in section 242.105 will impact the implementation requirements in section 242.101.

Subpart C—Administration of the Certification Program

Section 242.205 Identification of Certified Persons and Recordkeeping

FRA is amending paragraph (a) of this section to delay the date by which the railroads are required to maintain a list of its certified conductors. As indicated in the preamble, the date is being pushed back by 6 months. Accordingly, railroads are now required to maintain that list after September 1, 2012.

Section 242.215 Railroad Oversight Responsibilities.

This section of the final rule required Class I (including the National Railroad Passenger Corporation and a railroad providing commuter service) and Class II railroads to conduct an annual review and analysis of their programs for responding to detected instances of poor safety conduct by certified conductors beginning in calendar year 2013. To conform with the rest of the implementation dates in part 242 that have been pushed back by 6 months, FRA is revising paragraph (a) of this section to read "beginning in calendar year 2014."

Subpart D—Territorial Qualification and Joint Operations

Section 242.301 Requirements for Territorial Qualification

FRA is revising paragraph (c)(2) and adding paragraph (c)(3) to this section. Those paragraphs describe who may serve as an assistant to a conductor whose qualification on the physical characteristics of a main track territory has expired. For a conductor who was previously qualified on main track physical characteristics of the territory over which he or she is to serve as a conductor, but whose qualification has been expired for one year or less and who regularly traversed the territory prior to the expiration of the qualification, paragraph (c)(2) provides that the assistant may be any person, including an assigned crewmember, who meets the territorial qualification requirements for main track physical characteristics. For a conductor whose qualification has been expired for one year or less but who has not regularly traversed the territory prior to the expiration of the qualification, or a conductor whose territorial qualification on main track has been expired for more than a year, paragraph (c)(3) provides that the assistant may be any person, including an assigned crewmember other than the locomotive engineer so long as serving as the assistant would not conflict with that crewmember's other safety sensitive duties, who meets the territorial qualification requirements for main track physical characteristics.

Appendices

Section 2 of Appendix B is being amended to add a requirement that railroads must state in their programs the number of times a person must pass over a territory per year to be considered to have "regularly traversed" a territory for purposes of § 242.301(c). This requirement is similar to what railroads already do in their part 240 programs and operating rules with respect to locomotive engineers who have not worked any trips over a territory for a period of time.

FRA recognizes the uniqueness of railroad territories and the differences in their complexity and, therefore, FRA is providing the railroads with the discretion to determine how many times a conductor must pass over a territory to be considered to have "regularly traversed" a territory. Railroads have a higher level of familiarity with their territories than FRA, and thus, are in the best position to evaluate them to determine how many times a conductor must pass over a territory to safely use an assigned crewmember as an assistant. Indeed, many factors will affect the complexity of a territory. For example, signaling, grade and speed, the amount of territory covered, the number of lines that may be traversed, whether cars will be set off on branch lines and the differences between the branch lines, and joint operations over shared trackage are all factors that will need to considered in determining the number of passes that a conductor must have made over a territory before an assigned crewmember may be safely utilized as an assistant to the conductor. Given the number of factors involved, FRA expects that different frequencies of travel will be required for different lines.

Although the railroads best understand the difficulties that their territory presents for a conductor, FRA will closely review each railroad's program to ensure that the determinations regarding number of passes are reasonable in light of FRA's understanding of the railroad's operations. To that end, FRA recommends that each program contain a brief description of the railroad's operations, including mileage, speed, signal systems, type of service provided,

and any other factor the railroad considers significant to their operation.

V. Regulatory Impact and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This action has been evaluated in accordance with existing policies and procedures and determined to be non-significant under both Executive Order 12866 and DOT policies and procedures. *See* 44 FR 11034; February 26, 1979. The original final rule was determined to be non-significant. Furthermore, the amendments contained in this action are not considered significant because they generally clarify requirements currently contained in the final rule or allow for greater flexibility in complying with the rule.

These amendments and clarifications provide more time and flexibility in the implementation of this final rule. In addition, the amendments to the conductor assistant requirements in § 242.301 should decrease the burdens related to providing assistants. Thus, these amendments will have a minimal net effect on FRA's original analysis of the costs and benefits associated with the final rule.

B. Regulatory Flexibility Act and Executive Order 13272

To ensure potential impacts of rules on small entities are properly considered, FRA developed this action and the original final rule in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), FRA certifies that this action would not have a significant economic impact on a substantial number of small entities.

The amendments contained in this action that modify the implementation dates will provide small entities more time to implement conductor certification programs. The amendments to the conductor assistant requirements should have no significant economic impact on small entities since most small railroads usually operate with small train crews or remote control operations with a single-person crew who will be dual certified and thus likely to be qualified as both an engineer and a conductor on the physical characteristics of the territory over which they will operate. In addition, most smaller railroads have small territories and most of these territories, and their physical characteristics, likely will not change. Accordingly, because the amendments contained in this action generally clarify requirements currently contained in the final rule or allow for greater flexibility in complying with the rule, FRA has concluded that there are no substantial economic impacts on small entities resulting from this action.

C. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* None of the information collection requirements and corresponding burden time estimates below have changed in response to the petitions for reconsideration.

CFR Section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
242.9: Waivers—Petitions	677 railroads	10 petitions	3 hours	30
242.101/103: Certification Program: Written Program for Certifying Conductors.	677 railroads	678 programs	160 hrs./581 hrs./15.5 hrs.	16,799
Approval of Design of Programs.				
Certification Programs for New RRs	6 railroads	6 new prog	15.5 hours	93
Conductor Certification Submission Copies to Rail Labor Organizations.	677 railroads	200 copies	15 minutes	50
Affirmative Statements that Copies of Submissions Sent to RLOs.	677 railroads	200 statements	15 minutes	50
Certified Comments on Submissions	677 railroads	35 comments	4 hours	140
Certification Programs Disapproved by FRA and then Revised.	677 railroads	10 programs	4 hours	40
Revised Certification Programs Still Not Conforming and then Resubmitted.	677 railroads	3 programs	2 hours	6
Certification Programs Materially Modified After Initial FRA Approval.	677 railroads	50 programs	2 hours	100
Materially Modified Programs Disapproved by FRA & Then Revised.	677 railroads	3 programs	2 hours	6
Revised programs Disapproved and Then Resubmitted.	677 railroads	1 program	2 hours	2
242.1050: Implementation Schedule				
Designation of Certified Conductors (Class I Railroads).	677 railroads	48,600 designations	5 minutes	4,050
Issued Certificates (⅓ each year).				
Designation of Certified Conductors	677 railroads	16,200 certif	1 hour	16,200
(Class II and III Railroads)	677 railroads	5,400 design	5 minutes	450
Issued Certificates (⅓ each year)	677 railroads	1,800 certif	1 hour	1,800
Requests for Delayed Certification	677 railroads	5,000 request	30 minutes	2,500
Testing/Evaluation to Certify Persons	677 railroads	1,000 tests	560 hours	560,000
Testing/Evaluation to Certify Conductors (Class III).	627 railroads	100 tests	400 hours	40,000
242.107: Types of Service Reclassification to Diff. Type of Cert.	677 railroads	25 conductor Tests/ Evaluations.	8 hours	200
242.109: Opportunity by RRs for Certification Candidates to Review and Comment on Prior Safety Record.	677 Railroads	200 records + 200 comment.	30 minutes + 10 minutes.	133
242.111: Prior Safety Conduct As Motor Vehicle Operator.				

CFR Section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
Eligibility Determinations	677 Railroads	1,100 dtrmin	10 minutes	183
Initial Certification for 60 Days	677 Railroads	75 certific	10 minutes	13
Recertification for 60 Days	677 Railroads	125 recertif	10 minutes	21
Driver Info. Not Provided and Request for Waiver by Persons/RR.	677 Railroads	25 requests	2 hours	50
Request to Obtain Driver's License Information From Licensing Agency.	54,000 Conductors/ Persons.	18,000 req	15 minutes	4,500
Requests for Additional Information From Licensing Agency.	54,000 Conductors/ Persons.	25 requests	10 minutes	4
Notification to RR by Persons of Never Having a License.	54,000 Conductors/ Persons.	2 notification	10 minutes	.33
Report of Motor Vehicle Incidents	54,000 Conductors	200 reports	10 minutes	33
Evaluation of Driving Record	54,000 Conductors	18,000 eval	15 minutes	4,500
DAC Referral by RR After Report of Driving Drug/Alcohol Incident.	677 Railroads	180 referrals	5 minutes	15
DAC Request and Supply by Persons of Prior Counseling or Treatment.	677 Railroads	5 requests/Records	30 minutes	3
Conditional Certifications Recommended by DAC.	677 Railroads	50 certificat	4 hours	200
242.113: Prior Safety Conduct As Employee of a Different Railroad.	54,000 conductors	360 requests/360 records.	15 minutes + 30 minutes.	270
242.115: Substance Abuse Disorders and Alcohol Drug Rules Compliance:	54,000 conductors	18,000 determination	2 minutes	600
Meeting Section's Eligibility Reqmnt.				
Written Documents from DAC Person Not Affected by a Disorder.	677 railroads	400 docs	30 minutes	200
Self Referral by Conductors for Substance Abuse Counseling.	54,000 conductors	10 self referrals	10 minutes	2
Certification Reviews for Occurrence/Documentation of Prior Alcohol/Drug Conduct by Persons/Conductors.	677 railroads	18,000 reviews	10 minutes	3,000
Written Determination That Most Recent Incident Has Occurred.	677 railroads	150 determin	60 minutes	150
Notification to Person That Recertification Has Been Denied.	677 railroads	150 notific	10 minutes	25
Persons/Conductors Waiving Investigation	54,000 conductors	100 waivers	10 minutes	17
242.117: Vision and Hearing Acuity.				
Determination Vision Standards Met	677 railroads	18,000 deter	20 minutes	6,000
Determination Hearing Stds. Met	677 railroads	18,000 deter	20 minutes	6,000
Additional Gap Hearing Tests	677 railroads	200 deter	20 minutes	67
Medical Examiner Certificate that Person Has Been Examined/Passed Test.	677 railroads	18,000 certif	2 hours	36,000
Document Standards Met with Conditions	677 railroads	50 document	30 minutes	25
Document Standards Not Met	677 railroads	25 document	30 minutes	13
Notation Person Needs Corrective Device (Glasses/Hearing Aid).	677 railroads	10,000 notes	10 minutes	1,667
Request for Further Medical Evaluation for New Determination.	677 railroads	100 requests + 100 Evals.	60 minutes + 2 hours	300
Request for Second Retest and Another Medical Evaluation.	677 railroads	25 requests + 25 Evals	60 minutes + 2 hours	75
Copies of Part 242 Provided to RR Medical Examiners.	677 railroads	677 copies	60 minutes	677
Consultations by Medical Examiners with Railroad Officer and Issue of Conditional Certification.	677 railroads	100 consults + 100 certif.	2 hours + 10 minutes	217
Notification by Certified Conductor of Deterioration of Vision/Hearing.	677 railroads	10 notific	10 minutes	2
242.119: Training.				
Completion of Training Program	677 railroads	678 Program	36 hours/ 70 hrs/3 hrs	3,751
Modification to Training Program	677 railroads	678 Program	12 hrs/20 hrs/ 30 min	934
Completion of Training Program by Conductors/Persons + Documents.	54,000 Conductors	18,000 Docs/ 18,000 Cond.	1 hour/560 hours	10,098,000
Modification of Training Program Due to New Laws/Regulations.	677 railroads	30 programs	4 hours	120
Consultation with Supervisory Employee During Written Test.	677 railroads	1,000 consult	15 minutes	250
Familiarization Training Upon Transfer of RR Ownership.	677 railroads	10 trained Conductors	8 hours	80
Continuing Education of Conductors	677 railroads	18,000 cont. trained cond.	8 hours	144,000
242.121: Knowledge Testing Determining Eligibility.	677 railroads	18,000 deter	30 minutes	9,000
Retests/Re Examinations	677 railroads	500 Retests	8 hours	4,000

CFR Section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
242.123: Monitoring Operational Performance.				
Unannounced Compliance Tests and Records.	677 railroads	18,000 tests + 18,000 recd.	10 minutes + 5 minutes	4,500
Return to Service That Requires Unannounced Compliance Test/Record.	677 railroads	1,000 tests + 1,000 records.	10 minutes + 5 minutes	250
242.125/127: Certificate Determination by Other Railroads/Other Country.	677 railroads	100 determin	30 minutes	50
Determination Made by RR Relying on Another RR's Certification.				
Determination by Another Country	677 railroads	200 determin	30 minutes	100
242.203: Retaining Information Supporting Determination—Records.	677 railroads	18,000 recds	15 minutes	4,500
Amended Electronic Records	677 railroads	20 records	60 minutes	20
242.205: List of Certified Conductors Working in Joint Territory.	677 railroads	625 lists	60 minutes	625
242.209: Maintenance of Certificates	677 railroads	2,000 request/displays	2 minutes	67
Request to Display Certificate.				
Notification That Request to Serve Exceeds Certification.	677 railroads	1,000 notif	10 minutes	167
242.211: Replacement of Certificates	677 railroads	500 certific	5 minutes	42
242.213: Multiple Certificates	677 railroads	5 notification	10 minutes	1
Notification to Engineer That No Conductor Is On Train.				
Notification of Denial of Certification by Individuals Holding Multiple Certifications.	677 railroads	10 notific	10 minutes	2
242.215: RR Oversight Responsibility.				
RR Review and Analysis of Administration of Certification Program.	677 railroads	44 reviews/Analyses	40 hours	1,760
Report of Findings by RR to FRA	677 railroads	36 reports	4 hours	144 hours
242.301: Determinations—Territorial Qualification and Joint Operations.	320 railroads	1,080 Deter	15 minutes	270
Notification by Persons Who Do Not Meet Territorial Qualification.	320 railroads	500 Notific	10 minutes	83
242.401: Notification to Candidate of Information That Forms Basis for Denying Certification and Candidate Response.	677 railroads	40 notific. + 40 responses.	60 minutes/ 60 minutes	80
Written Notification of Denial of Certification	677 railroads	40 notific	60 minutes	40
242.403/405: Criteria for Revoking Certification; Periods of Ineligibility.				
Review of Compliance Conduct	677 railroads	950 reviews	10 minutes	158
Written Determination That the Most Recent Incident Has Occurred.	677 railroads	950 determin	60 minutes	950 hours
242.407: Process for Revoking Certification.				
Revocation for Violations of Section 242.115(e).	677 railroads	950 Revoked Certificates.	8 hours	7,600
Immediate Suspension of Certificate	677 railroads	950 suspend Certificate	1 hour	950
Determinations Based on RR Hearing Record.	677 railroads	950 determin	15 minutes	238
Hearing Record	677 railroads	950 records	30 minutes	475
Written Decisions by RR Official	677 railroads	950 decisions	2 hours	1,900
Service of Written Decision on Employee by RR + RR Service Proof.	677 railroads	950 decisions + 950 proofs.	10 minutes + 5 minutes	238
Written Waiver of Right to Hearing	54,000 Conductors	425 waivers	10 minutes	71
Revocation of Certification Based on Information That Another Railroad Has Done So.	677 railroads	15 revoked Certifications.	10 minutes	3
Placing Relevant Information in Record Prior to Suspending Certification/Convening Hearing.	677 railroads	100 updated records	1 hour	100

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. For information or a copy of the paperwork package submitted to OMB, contact Mr. Robert Brogan at (202) 493–6292 or Ms. Kimberly Toone at (202) 493–6132 or via email at the following addresses: *Robert.Brogan@dot.gov; Kimberly.Toone@dot.gov.*

FRA cannot impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. The assigned OMB approval number for the collection of information associated with this final rule is OMB No. 2130–0596.

D. Federalism Implications

Executive Order 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), requires FRA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are

defined in the Executive Order to include regulations 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." Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. The action will not have a substantial effect on the States or their political subdivisions; it will not impose any compliance costs; and it will not affect the relationships between the Federal government and the States or their political subdivisions, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

However, this action could have preemptive effect by operation of law under certain provisions of the Federal railroad safety statutes, specifically the former Federal Railroad Safety Act of 1970, repealed and recodified at 49 U.S.C. 20106. Section 20106 provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the "essentially local safety or security hazard" exception to section 20106.

In sum, FRA has analyzed this action in accordance with the principles and criteria contained in Executive Order 13132. As explained above, FRA has determined that this action has no federalism implications, other than the possible preemption of State laws under Federal railroad safety statutes, specifically 49 U.S.C. 20106. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this action is not required.

E. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

This action is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

F. Environmental Impact

FRA has evaluated this action in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this action is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. *See* 64 FR 28547 (May 26, 1999).

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this action that might trigger the need for a more detailed environmental review. As a result, FRA finds that this action is not a major Federal action significantly affecting the quality of the human environment.

G. Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Section 202 of the Act (2 U.S.C. 1532) further requires that "before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $140,800,000 or more in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement" detailing the effect on State, local, and tribal governments and the private sector. The action will not result in the expenditure, in the aggregate, of $140,800,000 or more in any one year, and thus preparation of such a statement is not required.

H. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any "significant energy action." 66 FR 28355 (May 22, 2001). Under the Executive Order, a "significant energy action" is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this action in accordance with Executive Order 13211. FRA has determined that this action is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this action is not a "significant energy action" within the meaning of Executive Order 13211.

I. Privacy Act

Anyone is able to search the electronic form of all comments received into any of DOT's 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 DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (Volume 65, Number 70, Pages 19477–78), or you may visit *http://www.regulations.gov/#!privacyNotice.*

List of Subjects in 49 CFR Part 242

Administrative practice and procedure, Conductor, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Rule

For the reasons discussed in the preamble, FRA amends part 242 of title 49 of the Code of Federal Regulations as follows:

PART 242—[AMENDED]

■ 1. The authority citation for part 242 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

■ 2. Section 242.103 is amended by revising paragraph (a) to read as follows:

§ 242.103 Approval of design of individual railroad programs by FRA.

(a) Each railroad shall submit its written certification program and request for approval in accordance with the procedures contained in appendix B of this part according to the following schedule:

(1) A Class I railroad (including the National Railroad Passenger Corporation), Class II railroad, or railroad providing commuter service shall submit a program no later than September 30, 2012; and

(2) A Class III railroad (including a switching and terminal or other railroad not otherwise classified) shall submit a program no later than January 31, 2013.

* * * * *

■ 3. Section 242.105 is amended by revising paragraphs (a), (b), (d), and (e) to read as follows:

§ 242.105 Schedule for implementation.

(a) By September 1, 2012, each railroad shall:

(1) In writing, designate as certified conductors all persons authorized by the railroad to perform the duties of a conductor as of January 1, 2012; and

(2) Issue a certificate that complies with § 242.207 to each person that it designates.

(b) After September 1, 2012, each railroad shall:

(1) In writing, designate as a certified conductor any person who has been authorized by the railroad to perform the duties of a conductor between January 1, 2012 and the pertinent date in paragraph (d) or (e) of this section; and

(2) Issue a certificate that complies with § 242.207 to each person that it designates.

* * * * *

(d) After December 1, 2012, no Class I railroad (including the National Railroad Passenger Corporation), Class II railroad, or railroad providing commuter service shall initially certify or recertify a person as a conductor unless that person has been tested and evaluated in accordance with procedures that comply with subpart B of this part and issued a certificate that complies with § 242.207.

(e) After April 1, 2013, no Class III railroad (including a switching and terminal or other railroad not otherwise classified) shall initially certify or recertify a person as a conductor unless that person has been tested and evaluated in accordance with procedures that comply with subpart B of this part and issued a certificate that complies with § 242.207.

* * * * *

■ 4. Section 242.205 is amended by revising paragraph (a) to read as follows:

§ 242.205 Identification of certified persons and record keeping.

(a) After September 1, 2012, a railroad shall maintain a list identifying each person designated as a certified conductor. That list shall indicate the types of service the railroad determines each person is authorized to perform and date of the railroad's certification decision.

* * * * *

■ 5. Section 242.215 is amended by revising paragraph (a) to read as follows:

§ 242.215 Railroad oversight responsibilities.

(a) No later than March 31 of each year (beginning in calendar year 2014), each Class I railroad (including the National Railroad Passenger Corporation and a railroad providing commuter service) and each Class II railroad shall conduct a formal annual review and analysis concerning the administration of its program for responding to detected instances of poor safety conduct by certified conductors during the prior calendar year.

* * * * *

■ 6. Section 242.301 is amended by revising paragraph (c) to read as follows:

§ 242.301 Requirements for territorial qualification.

* * * * *

(c) Except as provided in paragraph (e) of this section, if a conductor lacks territorial qualification on main track physical characteristics required by paragraph (a) of this section, he or she shall be assisted by a person who meets the territorial qualification requirements for main track physical characteristics.

(1) For a conductor who has never been qualified on main track physical characteristics of the territory over which he or she is to serve as a conductor, the assistant shall be a person who is certified as a conductor, meets the territorial qualification requirements for main track physical characteristics, and is not an assigned crew member.

(2) For a conductor who was previously qualified on main track physical characteristics of the territory over which he or she is to serve as a conductor, but whose qualification has been expired for one year or less and who regularly traversed the territory prior to the expiration of the qualification, the assistant may be any person, including an assigned crewmember, who meets the territorial qualification requirements for main track physical characteristics.

(3) For a conductor who was previously qualified on main track physical characteristics of the territory over which he or she is to serve as a conductor, and whose qualification has been expired for one year or less but who has not regularly traversed the territory prior to the expiration of the qualification, or a conductor whose territorial qualification on main track has been expired for more than a year, the assistant may be any person, including an assigned crewmember other than the locomotive engineer so long as serving as the assistant would not conflict with that crewmember's other safety sensitive duties, who meets the territorial qualification requirements for main track physical characteristics.

* * * * *

■ 7. Appendix B to part 242 is amended by revising Section 2 to read as follows:

Appendix B to Part 242—Procedures for Submission and Approval of Conductor Certification Programs

* * * * *

Section 2 of the Submission: Training Persons Previously Certified

The second section of the request must contain information concerning the railroad's program for training previously certified conductors. As provided for in § 242.119(l) each railroad must have a program for the ongoing education of its conductors to assure that they maintain the necessary knowledge concerning operating rules and practices, familiarity with physical characteristics, and relevant Federal safety rules.

Section 242.119(l) provides a railroad latitude to select the specific subject matter to be covered, duration of the training, method of presenting the information, and the frequency with which the training will be provided. The railroad must describe in this section how it will use that latitude to assure

that its conductors remain knowledgeable concerning the safe discharge of their responsibilities so as to comply with the performance standard set forth in § 242.119(l). This section must contain sufficient detail to permit effective evaluation of the railroad's training program in terms of the subject matter covered, the frequency and duration of the training sessions, the training environment employed (for example, use of classroom, use of computer based training, use of film or slide presentations, and use of on-job-training) and which aspects of the program are voluntary or mandatory.

Time and circumstances have the capacity to diminish both abstract knowledge and the proper application of that knowledge to discrete events. Time and circumstances also have the capacity to alter the value of previously obtained knowledge and the application of that knowledge. In formulating how it will use the discretion being afforded, each railroad must design its program to address both loss of retention of knowledge and changed circumstances, and this section of the submission to FRA must address these matters.

For example, conductors need to have their fundamental knowledge of operating rules and procedures refreshed periodically. Each railroad needs to advise FRA how that need is satisfied in terms of the interval between attendance at such training, the nature of the training being provided, and methods for conducting the training. A matter of particular concern to FRA is how each railroad acts to ensure that conductors remain knowledgeable about the territory over which a conductor is authorized to perform but from which the conductor has been absent. The railroad must have a plan for the familiarization training that addresses the question of how long a person can be absent before needing more education and, once that threshold is reached, how the person will acquire the needed education. Similarly, the program must address how the railroad responds to changes such as the introduction of new technology, new operating rule books, or significant changes in operations including alteration in the territory conductors are authorized to work over.

In addition to stating how long a conductor must be absent from a territory before their qualification on the physical characteristics of the territory expires, railroads must also state in their programs the number of times a person must pass over a territory per year to be considered to have "regularly traversed" a territory for purposes of § 242.301(c). Since territories differ in their complexity, railroads will be given discretion to determine how many times a conductor must pass over a territory to be considered to have "regularly traversed" a territory.

* * * * *

Issued in Washington, DC, on February 2, 2012.

Joseph C. Szabo,

Administrator.

[FR Doc. 2012–2915 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

[Docket No. 070718367–2061–02]

RIN 0648–AV33

Fisheries of the Exclusive Economic Zone Off Alaska; Community Development Quota Program

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations that govern fisheries managed under the Western Alaska Community Development Quota (CDQ) Program. These revisions are needed to comply with certain changes made to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in 2006. Changes include revising regulations associated with recordkeeping, vessel licensing, catch retention requirements, and fisheries observer requirements to ensure that they are no more restrictive than the regulations in effect for comparable non-CDQ fisheries managed under individual fishing quotas or cooperative allocations. In addition, NMFS removes CDQ Program regulations that now are inconsistent with the Magnuson-Stevens Act, including regulations associated with the CDQ allocation process, the transfer of groundfish CDQ and halibut prohibited species quota, and the oversight of CDQ groups' expenditures.

DATES: *Effective:* March 9, 2012.

ADDRESSES: Copies of the Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 12668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or, by email to *OIRA_submission@omb.eop.gov,* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish and crab fisheries of the Bering Sea and Aleutian Islands management area (BSAI) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (groundfish FMP) and the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (crab FMP). The North Pacific Fishery Management Council prepared the FMPs pursuant to the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). The International Pacific Halibut Commission and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982. Regulations governing the groundfish, crab, and halibut fisheries in the BSAI and implementing the FMPs appear at 50 CFR parts 300, 600, 679, and 680.

Background

The CDQ Program is an economic development program associated with federally managed fisheries in the BSAI. The purposes of the program are to provide western Alaska communities the opportunity to participate and invest in BSAI fisheries, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska. The CDQ Program was developed to redistribute some of the BSAI fisheries' economic benefits to adjacent communities by allocating a portion of commercially important BSAI fisheries species to such communities. Regulations establishing the CDQ Program were first implemented in 1992. The CDQ Program was incorporated into the Magnuson-Stevens Act in 1996 through the Sustainable Fisheries Act (Pub. L. 104–297).

NMFS allocates a portion of the annual catch limits—for a variety of commercially valuable marine species—in the BSAI to the CDQ Program. These apportionments are then allocated among six different non-profit managing organizations representing different affiliations of communities (CDQ groups). CDQ groups use the revenue derived from the harvest of their fisheries allocations to fund economic development activities and provide employment opportunities.

This final rule amends regulations associated with the management of the CDQ fisheries conducted in the BSAI, as well as regulations associated with

administrative aspects of the CDQ Program. The regulatory amendments are necessary to align existing regulations with changes made to the Magnuson-Stevens Act in 2006. This rule revises CDQ program regulations associated with fisheries observer coverage requirements, bycatch retention, vessel licensing, recordkeeping, and catch reporting to ensure that they are no more restrictive than the regulations in effect for comparable non-CDQ individual fishing quota (IFQ) fisheries and fisheries managed with cooperatives. The final rule revises regulations that may be considered more restrictive because they subject CDQ fishery participants to additional costs, to additional catch reporting requirements, or to additional controls beyond the measures in place for comparable non-CDQ fisheries.

The proposed rule for this action was published on July 13, 2010 (75 FR 39892), and the public comment period ended on August 12, 2010. Additional information and a description of the action are provided in detail in the preamble to the proposed rule and are not repeated here. Most of the regulatory amendments described in the proposed rule are implemented in this final rule. These include:

- Revising the CDQ Program purpose statement in § 679.1,
- Removing, revising, and adding definitions in § 679.2,
- Removing all regulations in § 679.30 (except paragraph (e)(1) related to quota transfers, which would be relocated to § 679.31) because they are not consistent with requirements in the Magnuson-Stevens Act associated with CDQ allocations, the allocation adjustment process, and the submission and maintenance of community development plans,
- Revising the CDQ catch monitoring and accounting regulations in § 679.32 to align with requirements in effect for comparable non-CDQ fisheries that are managed with IFQs or cooperatives.
- Revising CDQ observer coverage requirements in § 679.50, and
- Revising §§ 679.2, 679.4, 679.5, 679.7, 679.24, and 679.43 to remove obsolete regulations, correct errors in CDQ-related regulations that were made in prior rulemakings, and clarify CDQ-related terminology.

NMFS received comments on some of the regulatory amendments described in the proposed rule. After considering these comments, NMFS determined that several changes to the regulatory amendments described in the proposed rule are warranted and they have been made in this final rule. These changes are described below in "Comments and Responses" and "Changes from the Proposed Rule."

Comments and Responses

Comment 1: NMFS stated in the proposed rule that because the fixed gear Pacific cod fishery was not rationalized with IFQ or cooperative allocations, vessels fishing for CDQ Pacific cod with fixed gear would be required to comply with the CDQ observer coverage requirements at 50 CFR 679.50(c)(4). However, after publication of the proposed rule, fishing companies participating in the Pacific cod hook-and-line catcher/processor sector notified NMFS that they had formed a voluntary fishing cooperative. This cooperative is now active, and fishes for both CDQ and non-CDQ Pacific cod. The vessels in this cooperative are subject to the fisheries observer requirements at 50 CFR 679.50 when fishing for non-CDQ Pacific cod with fixed gear. Section 679.50 stipulates that observer coverage requirements for this vessel category include carrying a single observer for 30 to 100 percent of fishing days per calendar quarter depending on a vessel's length, gear type, and other parameters. These requirements are less restrictive than those that apply to vessels participating in the fixed-gear Pacific cod CDQ fishery, which require fixed-gear catcher/processors, regardless of length, to carry two observers while Pacific cod CDQ fishing. Accordingly, the Magnuson-Stevens Act provision at section 305(i)(1)(B)(iv) requiring that CDQ fisheries be managed no more restrictively than fisheries with "fishing cooperatives" applies to the Pacific cod CDQ fishery.

Response: NMFS acknowledges that a voluntary fishing cooperative has been formed by the fishing companies participating in the hook-and-line catcher/processor Pacific cod fishery. NMFS received confirmation of the formation of this cooperative in a letter from the Freezer Longline Conservation Cooperative submitted on May 19, 2011. Based on additional explanation provided in section 116(b)(2) of the Magnuson-Stevens Reauthorization Act of 2006 (Pub. L. 109–479, 120 Stat. 3606 (2007)), the CDQ regulation of harvest requirements at section 305(i)(1)(B) of the Magnuson-Stevens Act also apply when a voluntary fishing cooperative has formed in a non-CDQ sector (Pub. L. 109–479, § 116(b)(2), 120 Stat. 3575, 3606 (2007) (codified at 16 U.S.C. 1855 note)). Section 116(b)(2) states that, for purposes of section 305(i)(1) of the Magnuson-Stevens Act, a "fishing cooperative" means "* * * a fishing cooperative whether or not authorized by a fishery management council or Federal agency, if a majority of the participants in the sector are participants in the fishing cooperative."

NMFS has determined that the CDQ observer coverage requirements for vessels participating in the CDQ fixed gear Pacific cod fishery are more restrictive than the observer coverage requirements that apply to fixed gear catcher/processors participating in the non-CDQ Pacific cod fishery. Therefore, NMFS agrees with the comment and revises the relevant CDQ fisheries management regulations at § 679.32 with this final rule to ensure that the regulation of harvest provisions of the Magnuson Stevens Act apply to this sector and to vessels that are groundfish CDQ fishing while concurrently participating in a voluntary fishing cooperative. A complete description of these changes is in the section entitled "Changes from the Proposed Rule."

Comment 2: The commenter notes that the proposed spelling of the names of two CDQ-eligible communities in the proposed rule differs from the spelling used in section 305(i)(1)(D) of the Magnuson-Stevens Act. NMFS should spell out the names of Saint George and Saint Paul, rather than abbreviating "Saint" to "St."

Response: NMFS agrees, and revises Table 7 to 50 CFR part 679 to incorporate the full spelling of the names of these two communities.

Comment 3: NMFS should reconsider how it interprets the Magnuson-Stevens Act paragraph that addresses the regulation of CDQ harvest. Specifically, NMFS should interpret the phrase "nontarget species" in section 305(i)(1)(B)(iv) to include prohibited species quota (PSQ) allocated to the CDQ program, consistent with the plain language of the statute. Otherwise, PSQ restrictions could be applied to the CDQ fisheries in a more restrictive manner than prohibited species catch (PSC) restrictions applicable to non-CDQ fisheries.

Response: In the proposed rule prepared for this action (see **ADDRESSES**), NMFS explained that Magnuson-Stevens Act requirements at section 305(i)(1)(B)(iv) do not apply to regulations governing the catch of PSQ in the CDQ fisheries. NMFS based this interpretation on existing fisheries management regulations in 50 CFR part 679, in particular those defining "harvesting or to harvest" as being associated with the catch and retention of fish. After considering the comment, NMFS has determined that this is still a reasonable interpretation of section 305(i)(1)(B)(iv), and that "nontarget species" refers to groundfish species

other than the primary target species that a vessel catches in a specific haul or during a given fishing trip.

The plain language of section 305(i)(1)(B)(iv) applies the provision to the "harvest of allocations under the program." Section 305(i)(1)(B)(i) establishes the CDQ program allocations, stating that "the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program *in each directed fishery of the Bering Sea and Aleutian Islands* shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program." (emphasis added). PSC limits established in the Bering Sea and Aleutian Islands (BSAI) groundfish fisheries, and the corresponding PSQ allocations from those limits to the CDQ program, are not directed fisheries and regulations at 50 CFR 679.21(b)(2) require operators of vessels engaged in directed fishing for BSAI groundfish to minimize its catch of PSC. Therefore, PSQ is not an allocation to the CDQ program for purposes of section 305(i)(1)(B). NMFS is not persuaded by the commenter's argument that the plain language of section 305(i)(1)(B)(iv) requires inclusion of PSQ in the phrase "nontarget species" and has determined that the language of section 305(i)(1)(B) supports the agency's interpretation.

The CDQ Program as a whole, and CDQ groups individually, receive a specific allocation of each BSAI PSC category as PSQ. This includes allocations of Pacific halibut, Chinook salmon, non-Chinook salmon, and three crab species. CDQ groups are prohibited from exceeding their allocations of halibut and Chinook salmon PSQ. The complete catch of non-Chinook salmon and crab PSQ amounts results in area closures, rather than fishery closures. Each CDQ group has control over its PSQ allocations and may internally allocate them among its target fisheries as it considers appropriate. The CDQ fisheries and CDQ groups are not subject to non-CDQ fishery or management area closures that may occur during the year as non-CDQ sectors fully catch their halibut, crab, and salmon PSC apportionments.

This action will not change the management practices for PSQ management in the CDQ fisheries. As noted in the EA/RIR prepared for this action (See **ADDRESSES**), NMFS expects that this action will have minimal effects on prohibited species. This action does not amend prohibitions against exceeding annual PSQ catch limits. However, it will amend regulations to allow the transfer of halibut PSQ either before or after such quota is caught, as will be allowed for groundfish CDQ transfers. Accordingly, NMFS does not believe that it is appropriate to revise its interpretation of the Magnuson-Stevens Act at section 305(i)(1)(B)(iv) to incorporate PSQ management. The treatment of PSQ will be addressed on a case-by-case basis during the development of additional fisheries management programs that establish individual quotas or fisheries cooperatives.

Comment 4: The commenter raises general concerns that the proposed rule would subject fishermen to additional paperwork or require additional fishing permits or licenses.

Response: As explained in the proposed rule, NMFS is revising fisheries regulations to ensure that the CDQ fisheries are harvested no more restrictively than other Federal fisheries managed with quotas or fisheries cooperatives. The changes that are implemented by this final rule do not add additional paperwork or permitting requirements, with the exception of the creation of an application that may be used to request the use of alternative CDQ harvesting regulations for vessels that are operating in a voluntary fishery cooperative. Contrary to the commenter's assertions, this action actually reduces catch monitoring and reporting requirements for participants in certain groundfish CDQ fisheries.

Comment 5: The comment raises general concerns about the development and implementation of the Crab Rationalization Program, which was implemented by NMFS in 2005.

Response: This comment is not specifically related to the proposed rule.

Changes from the Proposed Rule

This final rule includes changes from the proposed rule. These changes fall into four categories: (1) Revisions needed to apply the Magnuson-Stevens Act regulation of harvest provision when a voluntary cooperative exists in a non-CDQ sector (see response to Comment 1); (2) revisions needed to accommodate changes made to 50 CFR part 679 by other rules that have been published since the proposed rule was published; (3) one revision needed to remove an obsolete definition; and (4) a correction to add an inadvertently deleted paragraph back into catch monitoring requirements for catcher/processors at § 679.32(c)(3).

First, a new paragraph (e) is added to § 679.32 to provide a process for relief from more restrictive CDQ regulations if a voluntary cooperative forms in a non-CDQ sector. Section 679.32(e) allows a CDQ group, a representative of an association representing the CDQ groups, or a representative of a voluntary fishing cooperative to request approval from NMFS to use non-CDQ harvest regulations while groundfish CDQ fishing. A person requesting approval to use non-CDQ harvest regulations must submit to NMFS an application that will provide NMFS with information about the submitting entity, the applicable cooperative and the fisheries in which that cooperative participates, the vessels participating in that cooperative, and a copy of the contract or affidavit documenting the formal existence of the cooperative. NMFS will review this information and make determinations about whether a majority of the participants in the sector in which the voluntary cooperative has formed are participants in the cooperative and whether the CDQ regulations are more restrictive than the non-CDQ regulations applicable to that sector. If NMFS approves an application, vessel operators operating in the cooperative would have to comply with the applicable regulations in place for a particular non-CDQ groundfish fishery based on their vessel's operational category and the directed groundfish fisheries in which they participated. Specifically, vessel operators would not have to comply with the applicable operational requirements in § 679.32(c)(3)(i) associated with (1) observer coverage levels and experience requirements, (2) observer sampling stations, and (3) the information used to accrue catch against the CDQ allocations. Operators also would not have to comply with CDQ observer coverage requirements in § 679.50(c)(4), but would have to comply with the more general observer requirements detailed in other paragraphs of § 679.50 that apply when these vessels are fishing in the non-CDQ fisheries.

As noted in Comment 1 above, a voluntary fishing cooperative has been formed by the fishing companies participating in the hook-and-line catcher/processor Pacific cod fishery. If NMFS received an application to use non-CDQ harvest regulations while vessels in this cooperative were fishing for Pacific cod CDQ, NMFS would review the application to ensure that (1) it was complete and accurate, (2) that the vessels listed on the application form comprise the majority of the vessels in the hook-and-line catcher/processor Pacific cod sector, and (3) the CDQ harvest regulations are more restrictive than the non-CDQ harvest regulations. NMFS defines the hook-and-line catcher/processor sector in the

same way as it is defined in the Consolidated Appropriations Act, 2005 (Pub. L. 108–447, 118 Stat. 2886). That Act defines the "longline catcher/processor subsector" to mean "the holder of an LLP license * * * that is endorsed for Bering Sea or Aleutian Islands catcher processor activity, C/P, P. cod, and hook-and-line gear." Thus, NMFS' review would include verifying that the vessels listed on the application form comprise greater than 50 percent of the vessels and associated LLP groundfish licenses eligible to be in this particular subsector.

In conjunction with allowing vessels in a voluntary cooperative to operate under non-CDQ groundfish fisheries regulations while fishing for groundfish CDQ, NMFS would also have to modify its CDQ catch accounting practices. This would entail using the production data that is already required to be submitted under § 679.5, rather than observer data, for some proportion of the catch made by vessels in a voluntary fishery cooperative. This is because the CDQ regulations in § 679.50(c)(4) require a higher level of observer coverage than is usually required for vessels fishing for non-CDQ groundfish. This level of observer coverage would be decreased for the vessels that are directed fishing for CDQ while operating in a voluntary cooperative. As a result, NMFS will have to use a combination of data sources to determine a vessel's total groundfish CDQ and PSQ catch. This will include the use of observer data, if available, production data submitted by the vessel operator, and NMFS-calculated bycatch rates for PSQ species.

Second, the following revisions from the proposed rule are needed to reflect revisions made to 50 CFR part 679 by other rules that have been published since the proposed rule was published:

1. The replacement of the term "NMFS-certified observer" with the term "observer" in numerous sections of 50 CFR part 679, as described in the proposed rule for this action, will still occur in this final rule. However, some of these changes have already occurred in some sections through other rulemaking, including §§ 679.5, 679.7, 679.21 and 679.50. Therefore, some of the proposed changes to terminology are no longer needed and these have been removed from the remove/add table.

2. The deletions and revisions to prohibitions in § 679.7(d) that are detailed in the proposed rule are still applicable; however, the proposed paragraph numbering is not. Following the publication of the proposed rule associated with this action, a different regulatory action re-organized and revised § 679.7(d). That action, Amendment 91 to the groundfish FMP, implemented Chinook salmon bycatch management measures in the Bering Sea pollock fisheries (75 FR 53026, August 30, 2010). Those measures also are applicable to the pollock CDQ fisheries, and include revisions to prohibitions associated with salmon PSQ. The final rule implementing Amendment 91 to the groundfish FMP categorized related CDQ prohibitions in § 679.7(d) into general, catch accounting, and prohibited species categories. This also resulted in a new paragraph numbering hierarchy. The paragraph redesignation associated with that change encompasses many of the revisions to § 679.7(d) implemented by this action.

3. The proposed change to § 679.21(e)(3)(i)(A)(*3*)(*i*) is no longer necessary. The proposed revision, which would have corrected an omission made in a prior rulemaking, was made by the final rule implementing Amendment 91 to the groundfish FMP.

4. Due to the redesignation of the paragraphs under § 679.7(d), the proposed revision to a cross reference in § 679.22(h) is changed. The original revision was described in the proposed rule; however, the cross-reference changed due to the implementation of Amendment 91 to the groundfish FMP and its associated changes to § 679.7(d).

5. Some cross-references for § 679.32 that were included in the proposed rule have become obsolete due to the implementation of more recent regulatory actions. Such cross-references are revised to reflect current regulatory citations.

Third, NMFS is deleting the definition of "resident fisherman" from § 679.2. This term was originally developed for the CDQ program and is only used in the definition of "qualified applicant" and is not used elsewhere in 50 CFR part 679. NMFS proposed to delete the term "qualified applicant" in the proposed rule and the proposed deletion of the term "qualified applicant" renders the term "resident fisherman" obsolete. Therefore, NMFS is deleting the terms "qualified applicant" and "resident fisherman" in this final rule.

Fourth, NMFS inadvertently deleted an existing regulatory requirement for catcher/processors using nontrawl gear to provide an observer sampling station while fishing for groundfish CDQ in the proposed rule associated with this action (75 FR 39892, July 13, 2010). This final rule does not include the proposed deletion of this requirement to § 679.32(c)(3)(i)(F). NMFS did not intend to remove this existing regulation as the monitoring requirements for catcher/processors using nontrawl gear must be aligned with those in place for catcher/processors using trawl gear while fishing for groundfish CDQ and motherships accepting deliveries of groundfish CDQ. Vessels in each of these categories are required to provide such sampling stations to aid in fisheries observers' catch weighing, sampling, and data collection duties.

Classification

The Administrator, Alaska Region, NMFS, has determined that this rule is necessary for the conservation and management of the Alaska groundfish fisheries managed under the groundfish FMP and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to comments, and a summary of the analyses completed to support the action. Each item in section 604(a)(1)–(5) of the RFA has been addressed in the classification section of the final rule. A copy of this analysis is available from NMFS (see **ADDRESSES**).

NMFS published the proposed rule for this action on July 13, 2010 (75 FR 39892), with comments invited through August 12, 2010. An IRFA was prepared, and summarized in the "Classification" section of the proposed rule. The description of this action, the need for and objectives of the action, and the legal reasons for selecting the alternative implemented by this action are described elsewhere in this preamble and are not repeated here.

NMFS received two responses, containing five unique comments, about the proposed rule. No public comments were specifically received about the IRFA. However, one of the public comments requested that NMFS consider additional revisions to CDQ catch monitoring regulations with respect to the hook-and-line catcher/processor sector. Such revisions would decrease the applicable fisheries observer requirements for this vessel category while such vessels were fishing for Pacific cod CDQ. Comment 1 discusses this issue in detail in the section titled "Response to Comments." NMFS is implementing changes to CDQ catch monitoring regulations for vessels that fish for groundfish CDQ while

participating in a cooperative as part of this action.

The entities directly regulated by this action are the six CDQ groups that participate in the halibut, sablefish, groundfish, and pollock CDQ fisheries in the BSAI. CDQ groups are considered to be small entities under the RFA's categorization of small, non-profit organizations. This action is expected to reduce the costs associated with various aspects of participating in these CDQ fisheries. These include costs associated with different CDQ fisheries' regulatory requirements governing (1) fisheries observer coverage levels, (2) catch retention and accounting, (3) vessel eligibility designation, and (4) vessel licensing.

All six CDQ groups annually are allocated groundfish CDQ, halibut CDQ, and crab CDQ. These groups participate, either directly or indirectly, in the commercial harvest of these allocations. CDQ groups receive royalties from the successful harvest of CDQ by commercial fishing companies, as well as access to employment and training opportunities for their communities' residents. Royalties and income from CDQ harvesting activities are used to fund economic development projects in CDQ communities. Based on the most recently available information, the CDQ groups received approximately $60 million in royalties from the harvest of their CDQ allocations in 2009. Participants in the CDQ fisheries affected by this action will no longer be subject to regulations that are more costly, complex, or burdensome than those that apply to comparable IFQ fisheries or fisheries managed with cooperatives. Thus, this action is not expected to have an adverse economic impact on the small entities affected by this action.

NMFS evaluated three alternatives associated with this action. Alternative 1, the status quo, would maintain different fisheries management regulations for the halibut, fixed gear sablefish, and pollock CDQ fisheries. Each of these fisheries has a comparable IFQ or cooperative fishery. However; due to the different policies and objectives associated with the original development of the regulations governing the CDQ fisheries, CDQ harvest regulations sometimes differed from those in place for the non-CDQ fisheries associated with this action. Maintaining existing regulations associated with the CDQ fisheries that are more restrictive than those in place for comparable IFQ and cooperative fisheries would not comply with the Magnuson-Stevens Act.

Alternative 2, the preferred alternative, will revise CDQ fisheries management regulations in 50 CFR part 679 to align them with regulations that govern fisheries managed with IFQs and fisheries managed with cooperatives. The regulatory revisions implemented by this rule include: (1) Separating fixed gear sablefish CDQ and pollock CDQ from regulations associated with the other groundfish CDQ fisheries; (2) exempting participants in the sablefish CDQ fishery from needing a license limitation program groundfish license by excluding fixed gear sablefish CDQ from the definition of "license limitation species"; (3) removing a requirement that CDQ groups annually submit a request to NMFS to designate specific vessels as eligible to harvest groundfish CDQ on their behalf; (4) revising CDQ catch monitoring requirements; and (5) revising regulations to align observer coverage requirements for the sablefish, halibut, groundfish, and pollock CDQ fisheries with comparable non-CDQ fisheries. On the basis of the best available information, this preferred alternative imposes the minimum adverse economic impact on directly regulated small entities, while achieving the objectives of the regulatory action, among all the alternatives available to the agency. The preferred alternative incorporates regulatory revisions that reduce the potential economic and operational burden on small entities.

Alternative 3 would amend regulations to fully integrate the sablefish CDQ fisheries into the sablefish IFQ fisheries management system. It also would make the same general changes proposed for Alternative 2 (described in the preceding paragraph). Sablefish CDQ currently is managed in conjunction with all other groundfish CDQ fisheries. In contrast, halibut CDQ is managed in conjunction with the halibut IFQ fisheries, and is thus subject to IFQ-related regulations. Alternative 3 would (1) require CDQ groups to obtain sablefish CDQ permits prior to conducting directed fishing for sablefish, (2) incorporate sablefish CDQ into the IFQ recordkeeping and reporting requirements and make IFQ prohibitions applicable to the sablefish CDQ fishery, and (3) incorporate the sablefish CDQ fishery into IFQ regulations associated with quota transfers and catch accounting.

Both Alternatives 2 and 3 would meet the requirement of the Magnuson-Stevens Act that CDQ fisheries be managed no more restrictively than fisheries managed with IFQs or harvesting cooperatives by matching regulations as closely as possible for relevant CDQ and non-CDQ fisheries. In the case of Alternative 3, the sablefish CDQ fishery would be fully integrated into both the regulations and the administrative structure in place for the sablefish IFQ fishery.

Alternative 2 was selected as the preferred alternative primarily based on the potential changes that each alternative would bring to the fixed gear sablefish CDQ fishery. NMFS believes that Alternative 2 would result in the least disruptive change to the CDQ groups and CDQ fisheries, while meeting the regulation of harvest requirements in the Magnuson-Stevens Act. Alternative 2 would amend regulations for the CDQ fisheries affected by this action to match regulations in place for most comparable non-CDQ fisheries, but would not make as many changes to the program as Alternative 3. Alternative 2 would not integrate the sablefish CDQ fishery into the sablefish IFQ program. CDQ groups would not be subject to sablefish CDQ permitting requirements and additional IFQ-related reporting requirements, nor would NMFS have to implement such requirements. Furthermore, keeping fixed gear sablefish CDQ under the groundfish CDQ catch accounting and management system would make it easier for NMFS to monitor the catch and transfer of the multiple categories of sablefish CDQ (*i.e.*, trawl and non-trawl gear allocations) allocated to the CDQ Program and CDQ groups. Placing the fixed-gear sablefish CDQ in the sablefish IFQ catch accounting system would add complexity to the sablefish CDQ transfer process.

NMFS is not aware of any additional alternatives to those considered that would accomplish the objectives of the Magnuson-Stevens Act and other applicable statutes while minimizing the economic impact of this rule on small entities.

NMFS also is not aware of any other federal rules that would duplicate, overlap, or conflict with this action.

This final rule removes a number of collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under control number 0648–0269. The collection-of-information requirements that will be removed from the collection with publication of this final rule and its public reporting burden per response is estimated at: One hour for CDQ vessel eligibility request; 520 hours for a community development plan (CDP); 20 hours for an annual budget report; eight

hours for an annual budget reconciliation report; 40 hours for a substantial amendment to a CDP; and eight hours for a technical amendment to a CDP.

This final rule contains a new collection-of-information requirement subject to the PRA and which has been approved by OMB under control number 0648–0269. NMFS is revising regulations to allow vessels that are fishing for groundfish CDQ, while operating in a voluntary fishery cooperative, to submit to NMFS an application for the use of non-CDQ regulations when the CDQ regulations are more restrictive than the regulations otherwise required for participants in non-CDQ groundfish CDQ fisheries. This provision will be implemented through an application to NMFS for approval to use non-CDQ harvest regulations. NMFS estimates that the public reporting burden is five hours per response. Response times include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules.

The preamble to this final rule serves as the small entity compliance guide. The action does not require any additional compliance from small entities that is not described in the preamble. Copies of the final rule are available from NMFS (see **ADDRESSES**) and at the following Web site: *http://www.alaskafisheries.noaa.gov*.

List of Subjects in 50 CFR Parts 679 and 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 2, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, NMFS amends 50 CFR parts 679 and 680 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; Pub. L. 108–447.

■ 2. In § 679.1, revise paragraph (e) to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(e) *Western Alaska Community Development Quota (CDQ) Program.* Regulations in this part govern the Western Alaska CDQ Program (see subparts A, B, C, D, and E of this part). The purpose of the program is specified in 16 U.S.C. 1855(i)(1)(A).

* * * * *

■ 3. In § 679.2,

■ a. Remove the definitions for "CDQ group number", "CDQ project", "Community Development Plan", "Eligible vessel", "Managing organization", "Qualified applicant", and "Resident fisherman".

■ b. Revise the definitions for "CDQ allocation", "CDQ group", "CDQ Program", paragraph (1) of "Eligible community", "Groundfish CDQ fishing", "Halibut CDQ fishing", "License limitation groundfish", "PSQ allocation", "PSQ reserve", and

■ c. Add definitions for "CDQ number", "Pollock CDQ fishing", and "Sablefish CDQ fishing" in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

CDQ allocation means a percentage of a CDQ reserve specified under § 679.31 that is assigned to a CDQ group.

CDQ group means an entity identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(D). CDQ groups are listed in Table 7 to this part.

CDQ number means a number assigned to a CDQ group by NMFS that must be recorded and is required in all logbooks and reports submitted by vessels harvesting CDQ or processors taking deliveries of CDQ.

CDQ Program means the Western Alaska Community Development Quota Program.

* * * * *

Eligible community means: (1) for purposes of the CDQ Program, a community identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(D). Eligible communities are listed in Table 7 to this part.

* * * * *

Groundfish CDQ fishing means fishing that results in the retention of any groundfish CDQ species, but that does not meet the definition of pollock CDQ fishing, sablefish CDQ fishing, or halibut CDQ fishing.

* * * * *

Halibut CDQ fishing means using fixed gear, retaining halibut CDQ, and not retaining groundfish over the maximum retainable amounts specified in § 679.20(e) and Table 11 to this part.

* * * * *

License limitation groundfish means target species specified annually pursuant to § 679.20(a)(2), except that demersal shelf rockfish east of 140° W. longitude, sablefish managed under the IFQ program, sablefish managed under the fixed gear sablefish CDQ reserve, and pollock allocated to the Aleutian Islands directed pollock fishery and harvested by vessels 60 ft (18.3 m) LOA or less, are not considered license limitation groundfish.

* * * * *

Pollock CDQ fishing means directed fishing for pollock in the BS or AI under a pollock allocation to the CDQ Program authorized at § 679.31(a) and accruing pollock catch against a pollock CDQ allocation.

* * * * *

PSQ allocation means a percentage of a PSQ reserve specified under § 679.31 that is assigned to a CDQ group.

PSQ reserve means the amount of a prohibited species catch limit established under § 679.21(e) that has been allocated to the groundfish CDQ Program under § 679.21(e)(3)(i) and (e)(4)(i).

* * * * *

Sablefish CDQ fishing means fishing using fixed gear, retaining sablefish CDQ, and that results in the retained catch of sablefish GDQ plus sablefish IFQ being greater than the retained catch of any other groundfish species or species group.

* * * * *

■ 4. In § 679.4, revise paragraph (e)(1)(i) to read as follows:

§ 679.4 Permits.

* * * * *

(e) * * *
(1) * * *
(i) The CDQ group, the operator of the vessel, the manager of a shoreside processor or stationary floating processor, and the Registered Buyer must comply with the requirements of this paragraph (e) for the catch of CDQ halibut.
* * * * * *

■ 5. In § 679.5,
■ a. Remove paragraph (n)(2),
■ b. Redesignate paragraphs (n)(1)(i), (n)(1)(ii), and (n)(1)(iii) according to the following table, and

Old paragraph(s)	New paragraph(s)
(n)(1)(i)	(n)(2).
(n)(1)(ii)	(n)(3).
(n)(1)(ii)(A) and (B)	(n)(3)(i) and (ii), respectively.
(n)(1)(iii)	(n)(4).
(n)(1)(iii)(A) and (B)	(n)(4)(i) and (ii), respectively.

■ c. Revise the heading of § 679.5(n) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * * *

(n) *CDQ and PSQ transfers.*

* * * * * *

■ 6. In § 679.7,
■ a. Remove paragraphs (d)(3), (d)(4), (d)(6), (d)(7)(i)(H), and (d)(7)(ii)(A),
■ b. Redesignate paragraph (d) according to the following table,

Old paragraph(s)	New paragraph(s)
(d)(5)	(d)(3).
(d)(7)	(d)(4).
(d)(7)(ii)(B)	(d)(4)(ii).
(d)(8)	(d)(5).
(d)(9)	(d)(6).
(d)(10)	(d)(7).

■ c. Revise newly redesignated paragraph (d)(4)(ii) and paragraph (f)(3)(ii), and
■ d. Add paragraph (d)(4)(i)(H) as follows:

The revisions and addition reads as follows:

§ 679.7 Prohibitions.

* * * * * *

(d) * * *
(4) * * *
(i) * * *

(H) For the operator of a vessel fishing on behalf of a CDQ group to retain more than the maximum retainable amount of pollock established under § 679.20(e) unless the pollock harvested by that vessel accrues against a CDQ group's pollock CDQ allocation.

(ii) *Fixed gear sablefish.* For any person on a vessel using fixed gear that is fishing for a CDQ group with an allocation of fixed gear sablefish CDQ, to discard sablefish harvested with fixed gear unless retention of sablefish is not authorized under § 679.23(e)(4)(ii) or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

* * * * * *

(f) * * *
(3) * * *

(ii) *Sablefish.* Retain sablefish caught with fixed gear without a valid IFQ permit, and if using a hired master, without an IFQ hired master permit in the name of an individual aboard, unless fishing on behalf of a CDQ group.

* * * * * *

■ 7. In § 679.22, revise paragraph (h) to read as follows:

§ 679.22 Closures.

* * * * * *

(h) *CDQ fisheries closures.* See § 679.7(d)(5) for time and area closures that apply to the CDQ fisheries once the non-Chinook salmon PSQ and crab PSQ amounts have been reached.

■ 8. In § 679.24, revise paragraph (b)(1)(ii) to read as follows:

§ 679.24 Gear limitations.

* * * * * *

(b) * * *
(1) * * *

(ii) While directed fishing for sablefish in the Bering Sea subarea.

* * * * * *

§ 679.30 [Removed and reserved]

■ 9. Remove and reserve § 679.30.

■ 10. Revise § 679.31 to read as follows:

§ 679.31 CDQ and PSQ reserves, allocations, and transfers.

(a) *CDQ and PSQ reserves*—(1) *Groundfish CDQ reserves.* See § 679.20 (b)(1)(ii).

(2) *Halibut CDQ reserve*—(i) NMFS will annually withhold from the IFQ allocation the proportions of the halibut catch limit that are specified in paragraph (a)(2)(ii) of this section for use as a CDQ reserve.

(ii) The proportions of the halibut catch limit annually withheld for the halibut CDQ program, exclusive of issued QS, are as follows for each IPHC regulatory area (see Figure 15 to this part):

(A) *Area 4B.* In IPHC regulatory area 4B, 20 percent of the annual halibut quota shall be apportioned to a CDQ reserve.

(B) *Area 4C.* In IPHC regulatory area 4C, 50 percent of the annual halibut quota shall be apportioned to a CDQ reserve.

(C) *Area 4D.* In IPHC regulatory area 4D, 30 percent of the annual halibut quota shall be apportioned to a CDQ reserve.

(D) *Area 4E.* In IPHC regulatory area 4E, 100 percent of the annual halibut quota shall be apportioned to a CDQ reserve. A fishing trip limit of 10,000 lb (4.54 mt) applies to halibut CDQ harvested through September 1.

(3) *Crab CDQ reserves.* Crab CDQ reserves for crab species governed by the Crab Rationalization Program are specified at § 680.40(a)(1) of this chapter. For Norton Sound red king crab, 7.5 percent of the guideline harvest level specified by the State of Alaska is allocated to the crab CDQ reserve.

(4) *PSQ reserve.* (See § 679.21(e)(3)(i)(A) and (e)(4)(i)(A).)

(b) *Allocations of CDQ and PSQ among the CDQ groups*–(1) *Annual allocations of groundfish, halibut, and crab CDQ reserves among the CDQ groups.* The CDQ reserves in paragraphs (a)(1) through (a)(3) of this section and § 679.20(b)(1)(ii) shall be allocated among the CDQ groups based on the CDQ percentage allocations required under 16 U.S.C. 1855(i)(1)(C), unless modified under 16 U.S.C. 1855(i)(1)(H). A portion of the groundfish CDQ reserves will be allocated according to paragraph (b)(2) of this section.

(2) *Annual allocations of nontarget groundfish species among the CDQ groups.* Seven-tenths of one percent of each of the annual TACs allocated as groundfish CDQ reserves under § 679.20(b)(1)(ii)(C) and (D), with the exception of the trawl gear sablefish CDQ reserves, shall be allocated among the CDQ groups by the panel established in section 305(i)(1)(G) of the Magnuson-Stevens Act.

(3) *Annual allocations of PSQ reserves among the CDQ groups.* The annual PSQ reserves shall be allocated among the CDQ groups based on the percentage allocations approved by NMFS on August 8, 2005. These percentage allocations are described and listed in a notice published in the **Federal Register** on August 31, 2006 (71 FR 51804).

(c) *Transfers.* CDQ groups may request that NMFS transfer CDQ or PSQ from one group to another group by each group submitting a completed transfer request as described in § 679.5(m)(1). NMFS will approve the transfer request if the CDQ group transferring quota to another CDQ group has sufficient quota available for transfer. If NMFS approves the request, NMFS will make the requested transfer(s) by decreasing the account balance of the CDQ group from which

the CDQ or PSQ species is transferred and by increasing the account balance of the CDQ group receiving the transferred CDQ or PSQ species. The PSQ will be transferred as of the date NMFS approves the transfer request and is effective only for the remainder of the calendar year in which the transfer occurs.

■ 11. Revise § 679.32 to read as follows:

§ 679.32 CDQ fisheries monitoring and catch accounting.

(a) *Applicability.* This section contains requirements for CDQ groups, vessel operators, and managers of processors that harvest or process fixed gear sablefish CDQ, pollock CDQ, or groundfish CDQ. Regulations governing the catch accounting of halibut CDQ are at § 679.40(h).

(b) *PSQ catch.* Time and area closures required once a CDQ group has reached its salmon PSQ or crab PSQ are listed in § 679.7(d)(5). The catch of salmon or crab by vessels using other than trawl gear does not accrue to the PSQ for these species. The discard of halibut by vessels using pot gear, jig gear, or hook-and-line gear to harvest sablefish CDQ will not accrue to the halibut PSQ if this bycatch has been exempted from the halibut PSC limit in the annual BSAI specifications published in the **Federal Register**.

(c) *Fisheries monitoring requirements and catch accounting sources for vessels sablefish, pollock, or groundfish CDQ fishing*—(1) *Sablefish CDQ fishing with fixed gear.* NMFS will use the following data sources to account for catch made by vessels sablefish CDQ fishing with fixed gear:

(i) *Sablefish CDQ.* NMFS will use the same information sources that are used to debit sablefish IFQ accounts (see § 679.40(h)) to debit fixed gear sablefish CDQ accounts. This information must be reported through standard reporting requirements in § 679.5.

(ii) *Groundfish CDQ.* NMFS will use the catch information submitted under standard reporting requirements in § 679.5 to debit any other groundfish CDQ species caught while sablefish CDQ fishing from applicable groundfish CDQ accounts.

(2) *Pollock CDQ fishing.*–(i) *Operational requirements for catcher/processors and motherships.* Operators of catcher/processors directed fishing for pollock CDQ and motherships taking deliveries of codends from catcher vessels directed fishing for pollock must comply with the following:

(A) Comply with the observer coverage requirements at § 679.50(c)(5)(i)(A).

(B) Notify the observers of CDQ catch before CDQ catch is brought onboard the vessel and notify the observers of the CDQ group and CDQ number associated with the CDQ catch.

(C) Comply with the catch weighing and observer sampling station requirements at § 679.63(a).

(ii) *Data sources used for CDQ catch accounting*–(A) *Catcher/processors and motherships.* NMFS will use observer data as the basis to debit pollock CDQ, groundfish CDQ, and PSQ account balances.

(B) *Catcher vessels delivering to shoreside processors.* NMFS will use the catch information submitted under standard reporting requirements in § 679.5 to debit pollock CDQ, other groundfish CDQ species, and PSQ caught while pollock CDQ fishing from applicable CDQ account balances.

(3) *Groundfish CDQ fishing*–(i) *Operational requirements*–(A) *Catcher vessels without an observer.* Operators of catcher vessels in this category must comply with one of the following requirements:

(*1*) Catcher vessels less than 60 ft (18.3 m) LOA must retain all groundfish CDQ species, halibut CDQ, and salmon PSQ until they are delivered to a processor that meets the requirements of paragraph (d) of this section, unless retention of groundfish CDQ species is not authorized under § 679.4; discard of the groundfish CDQ species is required under subpart B of this part; or, in waters within the State of Alaska, discard is required by the State of Alaska.

(*2*) Catcher vessels delivering unsorted codends to motherships must retain all CDQ and PSQ species and deliver them to a mothership that meets the requirements of paragraph (c)(3)(i)(D) of this section.

(B) *Catcher vessels with an observer using trawl gear and delivering to shoreside processors.* Operators of vessels in this category must comply with all of the following requirements:

(*1*) Comply with the observer coverage requirements at § 679.50(c)(4)(iii)(E).

(*2*) Retain all CDQ species and salmon PSQ until they are delivered to a processor that meets the requirements of paragraph (d) of this section unless retention of groundfish CDQ species is not authorized under § 679.4 of this part; discard of the groundfish CDQ species is required under subpart B of this part; or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

(*3*) Retain all halibut and crab PSQ in a bin or other location until it is counted and sampled by the observer.

(*4*) Provide space on the deck of the vessel for the observer to sort and store catch samples and a place from which to hang the observer sampling scale.

(C) *Catcher/processors using trawl gear.* Operators of vessels in this category must comply with the following requirements:

(*1*) Comply with the observer coverage requirements at § 679.50(c)(4)(iii)(A).

(*2*) Notify the observers of CDQ catch before CDQ catch is brought onboard the vessel and notify the observers of the CDQ group and CDQ number associated with the CDQ catch.

(*3*) Comply with the catch monitoring requirements at § 679.93(c).

(D) *Motherships taking deliveries of unsorted codends.* Operators of vessels in this category must comply with the following requirements:

(*1*) Comply with the observer coverage requirements at § 679.50(c)(4)(iii)(B).

(*2*) Notify the observers of CDQ catch before CDQ catch is brought onboard the vessel and notify the observers of the CDQ number associated with the CDQ catch.

(*3*) Provide an observer sampling station as described at § 679.28(d).

(*4*) The operator of a mothership taking deliveries of unsorted codends from catcher vessels must weigh all catch on a scale that complies with the requirements of § 679.28(b). Catch must not be sorted before it is weighed, unless a provision for doing so is approved by NMFS for the vessel. Each CDQ haul must be sampled by an observer for species composition and the vessel operator must allow observers to use any scale approved by NMFS to weigh partial CDQ haul samples.

(E) *Observed catcher vessels using nontrawl gear.* Operators of vessels in this category must retain all CDQ species until they are delivered to a processor that meets the requirements of paragraph (d) of this section unless retention of groundfish CDQ species is not authorized under § 679.4 of this part, discard of the groundfish CDQ or PSQ species is required under subpart B of this part, or, in waters within the State of Alaska, discard is required by laws of the State of Alaska. All of the halibut PSQ must be counted and sampled for length or average weight by the observer obtained in compliance with § 679.50(c)(4)(iii)(E).

(F) *Catcher/processors using nontrawl gear.* Operators of vessels in this category must comply with the following requirements:

(*1*) Each CDQ set on a vessel using nontrawl gear must be sampled by an observer obtained in compliance with § 679.50(c)(4)(iii)(C) or (D) for species composition and average weight.

(*2*) Notify the observers of CDQ catch before CDQ catch is brought on board the vessel and notify the observers of the CDQ number associated with the CDQ catch.

(*3*) Provide an observer sampling station as described at § 679.28(d).

(ii) *Data sources used for CDQ catch accounting.* NMFS will use the following sources to account for the catch of groundfish CDQ and PSQ species caught by vessels groundfish CDQ fishing.

(A) *Catcher vessels less than 60 ft (18.3 m) LOA.* The weight or numbers of all CDQ and PSQ species will be obtained from the CDQ delivery information submitted by processors to NMFS in accordance with paragraph (d) of this section.

(B) *Catcher vessels delivering unsorted codends.* The weight and numbers of groundfish CDQ (including pollock) and PSQ species will be determined by applying the species composition sampling data collected for each CDQ haul by the observer on the mothership to the total weight of each CDQ haul as determined by weighing all catch from each CDQ haul on a scale approved under § 679.28(b).

(C) *Observed catcher vessels using trawl gear.* The estimated weight of halibut and numbers of crab PSQ discarded at sea will be determined by using the observer's sample data. The weight or numbers of all landed groundfish CDQ and salmon PSQ will be derived from the delivery information submitted through the eLandings system, as required at § 679.5(e).

(D) *Catcher/processors and motherships using trawl gear.* The weight and numbers of CDQ and PSQ species will be determined by applying the observer's species composition sampling data for each CDQ haul to the total weight of the CDQ haul as determined by weighing all catch from each CDQ haul on a scale certified under § 679.28(b).

(E) *Observed catcher vessels using nontrawl gear.* The weight of halibut PSQ discarded at sea will be determined by using the observer's sample data. The weight or numbers of all landed groundfish CDQ and salmon PSQ will be derived from the delivery information submitted through the eLandings system, as required at § 679.5(e).

(F) *Catcher/processors using nontrawl gear.* The weight of halibut PSQ and all groundfish CDQ species, except sablefish, will be determined by applying the observer's species composition sampling data to the estimate of total catch weight, if any CDQ species are discarded at sea. Sablefish CDQ caught with fixed gear is accounted for as described in paragraph (c)(1) of this section.

(G) *Alternative fishing plan for catcher/processors.* A CDQ group may propose the use of an alternative method, such as using only one observer where normally two would be required, sorting and weighing of all catch by species on processor vessels, or using larger sample sizes than could be collected by one observer by submitting an alternative fishing plan to NMFS. NMFS will review the alternative fishing plan and approve it or notify the qualified applicant in writing if the proposed alternative does not meet the requirements of such a plan.

(*1*) *Alternative fishing plan requirements*—(*i*) The alternative proposed must provide equivalent or better estimates than use of the NMFS standard data source would provide and the estimates must be independently verifiable.

(*ii*) Each haul or set on an observed vessel must be able to be sampled by an observer for species composition.

(*iii*) Any proposal to sort catch before it is weighed must ensure that the sorting and weighing process will be monitored by an observer.

(*iv*) The time required for the level 2 observer to complete sampling, data recording, and data communication duties must not exceed 12 hours in each 24-hour period and the level 2 observer must not be required to sample more than 9 hours in each 24-hour period. NMFS will not approve an alternative fishing plan that would require the observer to divide a 12-hour shift into shifts of less than 6 hours.

(*2*) *Alternative fishing plan distribution and validity.* The CDQ group must provide a copy of the NMFS-approved alternative fishing plan to the operator of the approved vessel. The vessel operator must maintain the plan onboard the vessel at all times while it is operating under the alternative fishing plan. Alternative fishing plans are valid for the remainder of the calendar year in which they are approved. Alternatives to the requirement for a certified scale or an observer sampling station will not be approved.

(d) *Monitoring requirements for shoreside processors and stationary floating processors*—(1) *Requirements for processors taking deliveries of pollock CDQ*—(i) *Catch weighing.* Managers of shoreside processors or stationary floating processors taking deliveries of pollock CDQ must comply with the requirements at § 679.63(c).

(ii) *Catch monitoring and control plan.* Managers of AFA inshore processors or stationary floating processors taking deliveries of pollock CDQ must follow an approved catch monitoring and control plan as described at § 679.28(g).

(2) *Requirements for processors taking deliveries of groundfish CDQ.* Managers of shoreside processors and stationary floating processors taking deliveries of groundfish CDQ must comply with the following requirements:

(i) Comply with observer coverage requirements at § 679.50(d)(5)(iii) of this part.

(ii) *Provide prior notice to observer of offloading schedule.* Notify the observer of the offloading schedule of each CDQ delivery at least 1 hour prior to offloading to provide the observer an opportunity to monitor the sorting and weighing of the entire delivery.

(iii) *CDQ and PSQ by weight.* Sort and weigh on a scale approved by the State of Alaska under § 679.28(c) all groundfish and halibut CDQ or PSQ by species or species group.

(iv) *PSQ by number.* Sort and count all salmon and crab PSQ.

(v) *CDQ and PSQ sorting and weighing.* Sorting and weighing of CDQ and PSQ must be monitored by an observer.

(e) *Use of non-CDQ harvest regulations for vessels in voluntary fishing cooperatives*—(1) *Applicability.* If approved by NMFS under this paragraph (e), vessels participating in a voluntary fishing cooperative in a non-CDQ sector are authorized to conduct groundfish CDQ fishing under the same regulations that apply while such vessels are used to directed fish in the non-CDQ fisheries and are not required to comply with the CDQ harvest regulations in paragraph (c)(3)(i) of this section.

(2) *Who may apply?* A CDQ group representative, a representative of an association representing CDQ groups, or the authorized representative of a voluntary fishing cooperative may submit an application to use alternative CDQ harvest regulations.

(3) *Application process*—(i) *Application documents.* A completed application is comprised of an application form and a copy of the cooperative contract or an affidavit, as described below:

(A) *Application form.* The application to use alternative CDQ harvest regulations is available on the NMFS Alaska Region Web site at *www.alaskafisheries.noaa.gov*. All information fields must be accurately completed, including information about the applicant, the voluntary fishing

cooperative, and the vessels participating in the voluntary cooperative.

(B) *Cooperative contract or affidavit.* The application must include either a copy of the current voluntary fishing cooperative contract demonstrating participation in the cooperative by the owners of each of the vessels named on the application form or an affidavit that includes the information required in this paragraph (e)(3)(i)(B). NMFS must be able to determine the following information from the voluntary fishing cooperative contract or the affidavit: the name of the authorized representative of the cooperative; the printed names and signatures of each vessel owner that is a party to the voluntary cooperative; the vessel name, FFP number, and LLP license number for each vessel managed under the cooperative; and the target species, processing mode, gear types, and management area(s) associated with the voluntary cooperative's federal fishing operations. If an applicant submits a copy of the voluntary fishing cooperative contract but it does not contain this information, the applicant also must submit a written affidavit that provides all of the information required in this paragraph (e)(3)(i)(B) that is not included in the cooperative contract.

(ii) *Application submission.* The application for use of non-CDQ harvest regulations must be submitted to the Regional Administrator per the instructions on the application form.

(iii) *Submittal and duration*—(A) *Submittal.* An application requesting approval for the use of non-CDQ harvest regulations may be submitted to NMFS at any time.

(B) *Duration.* Once approved, an application to use alternative CDQ harvest regulations is effective as of the date on which NMFS approves the application. The approval is effective until the requesting entity withdraws its application, or until there is a change in the membership of the voluntary cooperative, whichever occurs first.

(iv) *NMFS review.* NMFS will review an application to use non-CDQ harvest regulations to determine that all of the information submitted complies with the requirements of paragraphs (e)(2) and (3) of this section, and that the vessels listed on the application form represent a majority of the vessels participating in the applicable sector. If NMFS determines that the application is deficient, NMFS will notify the applicant in writing to identify the discrepancies and provide the applicant with an opportunity to correct them.

(v) *NMFS determinations and administrative appeal.* NMFS will approve an application to use non-CDQ harvest regulations when it determines that all of the information submitted with the application complies with the requirements of paragraphs (e)(2) and (3) of this section, the vessels listed on the application form represent a majority of vessels participating in an applicable sector, and the CDQ harvest regulations are more restrictive than the non-CDQ regulations for the applicable sector. NMFS will issue an initial administrative determination (IAD) disapproving the application and the reasons for its disapproval if the application is incomplete, the voluntary cooperative does not represent a majority of the vessels participating in the sector, or the CDQ harvest regulations are not more restrictive than the non-CDQ regulations for the applicable sector. An applicant who receives an IAD disapproving an application may appeal under the procedures set forth at § 679.43.

(vi) *Amendments.* The entity applied for use of non-CDQ harvest regulations must promptly notify NMFS of any changes in the voluntary fishing cooperative's membership by re-applying in accordance with this paragraph (e). Amendments to an approved application to use alternative CDQ harvest regulations may be submitted to NMFS at any time, and will be reviewed under the requirements of this paragraph (e).

■ 12. In § 679.43, paragraph (a) is revised to read as follows:

§ 679.43 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made in this title under parts 300, 679, 680, and subpart E of part 300 of this chapter.

* * * * *

■ 13. In § 679.50, revise paragraphs (c)(2)(iii), (c)(4), and (d)(5) to read as follows:

§ 679.50 Groundfish Observer Program.

* * * * *

(c) * * *

(2) * * *

(iii) *Sablefish fishery.* In a retained catch of IFQ and CDQ sablefish that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (c)(2).

* * * * *

(4) *Fixed gear sablefish CDQ, pollock CDQ, and groundfish CDQ fisheries.* The owner or operator of a vessel fishing for sablefish CDQ with fixed gear, pollock CDQ fishing, or groundfish CDQ fishing as defined in § 679.2 must comply with the following observer coverage requirements while transporting (catcher vessel only), harvesting, processing, or taking delivery of CDQ or PSQ species.

(i) *Fixed gear sablefish CDQ fishery.* Catcher vessels and catcher/processor vessels equal to or greater than 60 ft (18.3 m) LOA participating in the fixed gear sablefish CDQ fishery must comply with the observer coverage requirements in paragraphs (c)(1)(iv) through (viii) and (c)(2)(iii) of this section.

(ii) *Pollock CDQ fishery*—(A) A catcher/processor that is pollock CDQ fishing or a mothership taking deliveries from catcher vessels that are pollock CDQ fishing must comply with the observer coverage and workload requirements in paragraph (c)(5) of this section.

(B) A catcher vessel that is pollock CDQ fishing must comply with the observer coverage requirements in paragraph (c)(5)(i)(D) of this section.

(iii) *Groundfish CDQ fisheries*—(A) *Catcher/processors using trawl gear.* A catcher/processor not listed in § 679.4(l)(2)(i) using trawl gear and groundfish CDQ fishing, except catcher/processors directed fishing for pollock CDQ, must comply with the observer coverage requirements at paragraph (c)(6)(i) of this section and the catch monitoring requirements in § 679.93(c).

(B) *Motherships.* A mothership that receives groundfish CDQ species from catcher vessels using trawl gear to participate in a directed fishery for CDQ groundfish species must have at least two level 2 observers as described at paragraphs (j)(1)(v)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead level 2 observer.

(C) *Catcher/processors using hook-and-line gear.* A catcher/processor using hook-and-line gear to directed fish for groundfish CDQ species must have at least two level 2 observers as described at paragraphs (j)(1)(v)(D) and (E) of this section aboard the vessel, unless NMFS approves an alternative fishing plan under § 679.32(c)(3) authorizing the vessel to carry only one lead level 2 observer. At least one of the level 2 observers must be certified as a lead level 2 observer.

(D) *Catcher/processors using pot gear.* A catcher/processor using pot gear to directed fish for groundfish CDQ species must have at least one lead level 2 observer as described at paragraphs (j)(1)(v)(D) and (E) of this section aboard the vessel.

(E) *Catcher vessels.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using any gear to directed fish for groundfish CDQ species, except a

catcher vessel using trawl gear that delivers only unsorted codends to a mothership or catcher/processor, must have at least one level 2 observer as described at paragraph (j)(1)(v)(D) of this section aboard the vessel.

(F) *Limitations.* The time required for the level 2 observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period, and, the level 2 observer is required to sample no more than 9 hours in each 24-hour period.

* * * * *

(d) * * *

(5) *Accepts deliveries of fixed gear sablefish CDQ, pollock CDQ, and groundfish CDQ* must comply with the following observer coverage requirements.

(i) *Fixed gear sablefish CDQ fishery.* Shoreside processors or stationary floating processors taking delivery of fixed gear sablefish CDQ must comply with the observer coverage requirements in paragraphs (d)(1) and (d)(2) of this section.

(ii) *Pollock CDQ fishery.* Each shoreside processor or stationary floating processor taking delivery of pollock CDQ must comply with the observer coverage requirements and duty restrictions in paragraph (d)(6) of this section.

(iii) *Groundfish CDQ fisheries.* Each shoreside processor or stationary floating processor taking deliveries of groundfish CDQ must have at least one level 2 observer as described at paragraph (j)(1)(v)(D) of this section present at all times while groundfish CDQ is being received or processed.

(iv) *Observer working hours.* The time required for the level 2 observer to complete sampling, data recording, and data communication duties may not exceed 12 hours in each 24-hour period, and the level 2 observer is required to sample no more than 9 hours in each 24-hour period.

* * * * *

■ 14. At each of the locations shown in the "Location" column of the following table, remove the phrase indicated in the "Remove" column and replace it with the phrase indicated in the "Add" column for the number of times indicated in the "Frequency" column.

§§ 679.2, 679.5, 679.7, 679.27, 679.28, 679.50, 679.84, 679.93 [Amended]

Location	Remove	Add	Frequency
§ 679.2 definition of "CDQ reserve"	set aside for purposes of	allocated to	1
§ 679.2 definition of "Fixed gear sablefish CDQ reserve"	§ 679.20(b)(1)(iii)(B). See also § 679.31.	§ 679.20(b)(1)(ii)(B)	1
§ 679.2 definition of "Halibut CDQ reserve"	§ 679.31(b)	§ 679.31(a)(2)	1
§ 679.5(a)(1)(iii)(A)	CDQ group number	CDQ number	1
§ 679.5(c)(3)(ii)(A)(*1*)	CDQ group number	CDQ number	1
§ 679.5(c)(3)(ii)(B)(*1*)	CDQ group number	CDQ number	1
§ 679.5(c)(3)(v)(D)	CDQ group number	CDQ number	1
§ 679.5(c)(4)(ii)(A)(*1*)	CDQ group number	CDQ number	2
§ 679.5(c)(4)(ii)(B)(*2*)	CDQ group number	CDQ number	1
Redesignated § 679.7(d)(5)(i)(A)	an eligible	a	1
Redesignated § 679.7(d)(5)(i)(B)	an eligible	a	1
Redesignated § 679.7(d)(5)(i)(C)	an eligible	a	1
Redesignated § 679.7(d)(5)(ii)(B)	an eligible	a	1
§ 679.27(j)(5)(ii)	a NMFS certified observer	an observer	1
§ 679.28(c)(4)(v)(D)	a NMFS-certified observer	an observer	1
§ 679.28(g)(7)(vii)	NMFS-certified observers	observers	1
§ 679.28(g)(7)(viii)	NMFS-certified observer	observer	1
§ 679.50(c)(5)(i)(A), (c)(5)(i)(B), (c)(5)(i)(C), (c)(6)(i), (c)(7)(i)(A), (c)(7)(i)(B), and (d)(6)(i).	NMFS-certified observers	observers	1
§ 679.50(g)(1)(iii)(A)	NMFS-certified observers	observers	2
§ 679.50(c)(6)(ii) and (c)(7)(i)(E)	NMFS-certified observer	observer	1
§ 679.50(c)(7)(ii)	a NMFS-certified observer	an observer	1
§ 679.50(d)(6)(i)	a NMFS certified observer	an observer	1
§ 679.50(j)(1)(v)(D) and (j)(3)(iv)	A certified observer	an observer	1
§ 679.84(c)(1)	a NMFS-certified observer	an observer	1
§ 679.84(d)(1) and (d)(2)	a NMFS-certified observer	an observer	2
§ 679.93(c)(1)	a NMFS-certified observer	an observer	1
§ 679.93(d)(1)	a NMFS-certified observer	an observer	2

■ 15. Table 7 to part 679 is revised to read as follows:

TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM

Aleutian Pribilof Island Community Development Association:
Akutan
Atka
False Pass
Nelson Lagoon
Nikolski
Saint George

TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM—Continued

Bristol Bay Economic Development Corporation:
Aleknagik
Clark's Point
Dillingham
Egegik
Ekuk
Ekwok
King Salmon/Savonoski
Levelock
Manokotak

TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM—Continued

Naknek
Pilot Point
Port Heiden
Portage Creek
South Naknek
Togiak
Twin Hills
Ugashik

Central Bering Sea Fishermen's Association:
Saint Paul

Coastal Villages Region Fund:

TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM—Continued

Chefornak
Chevak
Eek
Goodnews Bay
Hooper Bay
Kipnuk
Kongiganak
Kwigillingok
Mekoryuk
Napakiak
Napaskiak
Newtok
Nightmute
Oscarville
Platinum
Quinhagak
Scammon Bay
Toksook Bay
Tuntutuliak
Tununak
Norton Sound Economic Development Corporation:
Brevig Mission
Diomede
Elim
Gambell
Golovin
Koyuk
Nome
Saint Michael
Savoonga
Shaktoolik
Stebbins
Teller
Unalakleet
Wales
White Mountain
Yukon Delta Fisheries Development Association:
Alakanuk
Emmonak
Grayling
Kotlik
Mountain Village
Nunam Iqua

TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM—Continued

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 16. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 17. In § 680.2, revise the definitions for "CDQ community" and "CDQ group" in alphabetical order to read as follows:

§ 680.2 Definitions.

* * * * *

CDQ community means a community identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(A). CDQ communities are listed in Table 7 to 50 CFR part 679.

CDQ group means an entity identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(A). CDQ groups are listed in Table 7 to 50 CFR part 679.

* * * * *

[FR Doc. 2012–2751 Filed 2–7–12; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 26
Wednesday, February 8, 2012

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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1601, 1604, 1605, 1650, 1651, 1653, 1655, and 1690

Roth Feature to the Thrift Savings Plan and Miscellaneous Uniformed Services Account Amendments

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) proposes to amend its regulations to add a Roth feature to the Thrift Savings Plan. The Agency also proposes to reorganize regulatory provisions pertaining to uniformed services accounts.

DATES: Comments must be received on or before April 9, 2012.

ADDRESSES: You may submit comments using one of the following methods:

- *Mail:* Office of General Counsel, Attn: Thomas Emswiler, Federal Retirement Thrift Investment Board, 1250 H Street NW., Washington, DC 20005.
- *Hand Delivery/Courier:* The address for sending comments by hand delivery or courier is the same as that for submitting comments by mail.
- *Facsimile:* Comments may be submitted by facsimile at (202) 942–1676.

The most helpful comments explain the reason for any recommended change and include data, information, and the authority that supports the recommended change.

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at (202) 942–1645.

SUPPLEMENTARY INFORMATION: The Federal Retirement Thrift Investment Board (Agency) administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a defined-contribution retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to a private-sector "401(k) plan", *i.e.*, a cash or deferred arrangement described in section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The assets of the TSP are held in trust in the Thrift Savings Fund. Contributions to, or distributions from, the Thrift Savings Fund are treated under the Internal Revenue Code in the same manner as contributions to, or distributions from, a qualified trust described in section 401(a) of the Internal Revenue Code. *See* 5 U.S.C. 8440; 26 U.S.C. 7701(j).

The Thrift Savings Plan Enhancement Act of 2009, Public Law 111–31, Division B, Title I, authorized the Agency to implement a qualified Roth contribution program described in section 402A of the Internal Revenue Code. This feature will allow participants to make TSP contributions on an after-tax basis and receive tax-free earnings upon distribution if (1) five years have passed since January 1 of the year in which they made their first Roth contribution, and (2) a qualifying event has occurred (*i.e.*, attainment of age 59½, permanent disability, or death). The TSP Roth feature is similar to a designated Roth account maintained by a 401(k) plan.

Scope

This document sets forth the rules and procedures by which the Agency proposes to administer the Roth feature. This document does not, however, address in great detail the tax treatment of a contribution to, or distribution from, a Roth TSP balance. The tax treatment of a contribution to, or distribution from, a Roth TSP balance is governed by section 402A of the Internal Revenue Code.

Types of TSP Accounts and Balances

The TSP offers the following four types of accounts: Civilian accounts, uniformed services accounts, civilian beneficiary participant accounts, and uniformed services beneficiary participant accounts. A participant's Roth contributions and associated earnings may be one balance among several balances maintained in one or more of these four types of accounts. The Agency has adopted new terminology by which to refer to each of these balances.

Within each of these four types of accounts, the Agency may maintain a "Roth balance." A Roth balance consists of (1) Roth contributions and associated earnings and (2) Roth money transferred into the TSP and associated earnings. No other contributions (*e.g.* matching or Agency Automatic (1%) Contributions) will be allocated to the participant's Roth balance. The Agency will separately account for all Roth balance contributions, gains, and losses in order to determine the taxable and nontaxable portions of a distribution from a participant's account.

Within each of these four types of accounts, the Agency may also maintain a "traditional balance." A traditional balance consists of (1) tax-deferred employee contributions and associated earnings; (2) tax-deferred amounts rolled over or transferred into the TSP and associated earnings; (3) tax-exempt contributions and associated earnings; (4) matching contributions and associated earnings; and (5) Agency Automatic (1%) Contributions and associated earnings.

Within a traditional balance, the Agency may maintain a "tax-deferred balance" and a "tax-exempt balance." A tax-deferred balance consists of all amounts in a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant. A tax-exempt balance consists only of tax-exempt contributions made to a participant's traditional balance. Earnings on tax-exempt contributions will be included in the participant's tax-deferred balance. Because a tax-exempt balance includes only tax-exempt contributions, the terms "tax-exempt balance" and "tax-exempt contributions" are interchangeable.

Tax-exempt contributions are employee contributions made to a uniformed services participant's traditional balance from pay which is exempt from taxation under 26 U.S.C. 112 because it was earned in a combat zone. Consequently, only a traditional balance that is in a uniformed services account or a uniformed services beneficiary participant account may contain tax-exempt contributions.

The term "tax-exempt contributions" does not include contributions made to the participant's Roth balance from pay

which is exempt from taxation under 26 U.S.C. 112. Whether a Roth contribution is made from taxable pay or tax-exempt pay, the Agency will maintain all Roth contributions in a participant's Roth balance.

Upon adoption of this proposed regulation, any reference in the Agency's regulations to a participant's "account balance" will mean the aggregate of the participant's traditional balance and the participant's Roth balance.

Employee Contribution Elections

Section 1600.11 currently permits the following types of contribution elections: (1) To make employee contributions; (2) to change the amount of employee contributions; and (3) to terminate employee contributions. The Agency proposes to amend § 1600.11 to add an election to change the *type* of employee contributions.

The Agency also proposes to add a new section, 1600.20, to describe the types of employee contributions that a participant may make. Section 1600.20 permits employees to make traditional contributions, Roth contributions, or a combination of both. Paragraph (c) of § 1600.20 ensures that a uniformed services participant's tax-exempt pay will be contributed to his or her traditional or Roth balance (or a combination of both) in accordance with the contribution election made under § 1600.11.

Section 1690.1 contains definitions generally applicable to the TSP. The Agency proposes to add definitions for the terms "employee contributions," "traditional contributions," and "Roth contributions." Employee contributions are traditional contributions and Roth contributions made at the participant's election pursuant to § 1600.12 and deducted from compensation paid to the participant.[1]

Traditional contributions are tax-deferred employee contributions and tax-exempt employee contributions made to the participant's traditional balance. Roth contributions are employee contributions made to the participant's Roth balance. A participant's employing agency will deduct Roth contributions from taxable pay on an after-tax basis or from pay exempt from taxation under 26 U.S.C. 112.

Maximum Employee Contributions

Section 1600.22 currently provides that contributions, other than catch-up contributions, made at the participant's election are subject to the elective deferral limit contained in section 402(g) of the Internal Revenue Code. Like tax-deferred employee contributions, Roth contributions are subject to the Internal Revenue Code's elective deferral limit. *See* 26 U.S.C. 402A(c)(2); 26 CFR 1.402(g)–1(b)(5).

The Agency proposes to revise § 1600.22 to provide that tax-deferred contributions and Roth contributions, but not tax-exempt contributions to a participant's traditional balance, are subject to the Internal Revenue Code's elective deferral limit. Elective deferrals are, by definition, tax-deferred contributions unless they are Roth contributions. *See* 26 CFR 1.402(g)–1(a). Tax-exempt contributions to a participant's traditional balance are neither tax-deferred contributions nor Roth contributions. These tax-exempt contributions are treated as basis for tax purposes and the Agency does not track them against the maximum elective deferral limit set forth in 26 U.S.C. 402(g).

A participant may make traditional contributions and Roth contributions during the same year, but the combined total of tax-deferred employee contributions and Roth contributions cannot exceed the Internal Revenue Code's elective deferral limit. Likewise, a participant may make employee contributions to both a civilian account and a uniformed services account during the same year, but the combined total of tax-deferred employee contributions and Roth contributions to both accounts cannot exceed the Internal Revenue Code's elective deferral limit.

The Agency also proposes to delete all references to the percentage limitation on contributions that existed prior to 2006. Those references are obsolete. The Consolidated Appropriations Act for Fiscal Year 2001, Public Law 106–554, changed the limits on FERS and CSRS TSP employee contributions by raising the percentage limitation by one percent each year until 2006, when the limits were removed altogether. The maximum TSP employee contribution is now limited only by the provisions of the Internal Revenue Code.

Catch-up Contributions

The Agency proposes to move the catch-up contribution rules from paragraph (b) of § 1600.22 to a new section numbered 1600.23.

FERSA provides that an eligible participant (as defined by section 414(v) of the Internal Revenue Code) may make catch-up contributions to the Thrift Savings Fund to the extent permitted by section 414(v) and Agency regulations. 5 U.S.C. 8432(a)(3). The Internal Revenue Code permits eligible participants to make Roth catch-up contributions. The Agency therefore proposes to allow eligible participants to designate catch-up contributions as Roth catch-up contributions.

Under section 414(v) of the Internal Revenue Code, catch-up contributions must be elective deferrals. For reasons explained above, the Agency does not treat tax-exempt contributions to a traditional balance as elective deferrals. Therefore, members of the uniformed services are not permitted to make catch-up contributions to a traditional balance from tax-exempt pay. However, members of the uniformed services may make catch-up contributions to a Roth balance from tax-exempt pay. All catch-up contributions are subject to the limit described in section 414(v) of the Internal Revenue Code.

A participant may make traditional catch-up contributions and Roth catch-up contributions during the same year, but the combined total amount of catch-up contributions of both types cannot exceed the Internal Revenue Code's catch-up contribution limit. Likewise, a participant who has both a civilian account and a uniformed services account may make catch-up contributions to both accounts during the same year, but the combined total amount of catch-up contributions to both accounts cannot exceed the Internal Revenue Code's catch-up contribution limit.

Employing Agency Contributions

The Agency proposes to add a new section, 1600.19, to address rules and procedures related to employing agency contributions. Section 1600.19 provides that a participant's eligibility to receive matching contributions is the same whether the participant chooses to make traditional contributions, Roth contributions, or a combination of both. Section 1600.19 also provides that the Agency will allocate all employing agency contributions to the tax-deferred balance within a participant's traditional balance.

For example, suppose a FERS participant elects to contribute 1% of his or her basic pay as a traditional contribution and 2% of his or her basic pay as a Roth contribution. The employing agency must contribute 3% of that employee's basic pay to the employee's tax-deferred balance as a matching contribution. Because the employee is a FERS participant, the employing agency must also contribute Agency Automatic (1%) Contributions to the employee's tax-deferred balance

[1] The term "employee contributions" as defined in § 1690.1 is not synonymous with the term "employee contributions" as defined in 26 CFR 1.401(m)–1(a)(3).

whether or not he or she continues to make employee contributions.

Transfers and Rollovers Into the TSP

The Agency proposes to amend § 1690.1 to add a definition for the term "trustee-to-trustee transfer" (or "transfer"). A trustee-to-trustee transfer is a payment of an eligible rollover distribution directly from one eligible employer plan, traditional IRA, or Roth IRA to another eligible employer plan, traditional IRA, or Roth IRA at the participant's request.[2]

Section 1600.32 provides two methods for transferring an eligible rollover distribution into the TSP: (1) Trustee-to-trustee transfer (*i.e.*, direct rollover), and (2) rollover by the participant within 60 days of receipt. The Agency proposes to revise § 1600.32 by redesignating it as § 1600.31 and by providing the conditions under which the Agency will accept a transfer consisting of Roth money.

Specifically, the Agency must receive (1) a statement from the plan administrator indicating the first year of the participant's 5 year Roth non-exclusion period (as defined by 26 U.S.C. 402A(d)(2)(B)) under the distributing plan, and (2) *either* the portion of the transfer amount that represents Roth contributions (*i.e.*, tax basis) or a statement that the entire amount of the transfer is a qualified Roth distribution (as defined by 26 U.S.C. 402A(d)(2)(A)). This requirement is necessary to enable the TSP to determine whether the earnings portion of any subsequent distribution from the participant's Roth balance may be received tax-free.

The Agency also proposes to revise § 1600.32 to provide that the TSP will not accept Roth money that is rolled over by a participant after the participant has received the distribution. A rollover by the participant in lieu of a transfer would result in several disadvantages to the participant. First, when a participant does a rollover after he or she receives a distribution of Roth money in lieu of doing a transfer, the first taxable year in which the participant made a Roth contribution to the distributing plan does not carry over to the TSP for purposes of determining whether the earnings portion of a subsequent distribution from the participant's Roth balance may be received tax-free. *See* 26 CFR 1.402A–1, Q&A–5(c). Second, the Internal Revenue Service prohibits participants from rolling over any nontaxable portion of a distribution from a designated Roth account (*i.e.*, a Roth 401(k), Roth 403(b), or Roth 457(b) account) after the participant has received the distribution. *See* 26 CFR 1.402A–1, Q&A–5(a). For these reasons, the TSP will accept Roth money only if the TSP receives the money via trustee-to-trustee transfer (*i.e.*, direct rollover).

FERSA provides that the maximum amount permitted to be transferred to the Thrift Savings Fund shall not exceed the amount which would otherwise have been included in the participant's gross income for Federal income tax purposes. *See* 5 U.S.C. 8432(j)(2). In accordance with FERSA, § 1600.31 prohibits the transfer of after-tax or tax-exempt money into the TSP. The Agency proposes to redesignate § 1600.31 as § 1600.30 and revise paragraph (c)(1)(vi) of redesignated § 1600.30 to clarify that FERSA's prohibition against transferring after-tax money or tax-exempt money into the TSP does not apply to Roth money. Although FERSA's prohibition against transferring after-tax money or tax-exempt money into the TSP does not apply to Roth money, the Internal Revenue Code prohibits the transfer of Roth money from a Roth IRA to the TSP Roth balance. Therefore, the TSP will only accept Roth money if it is transferred from a designated Roth account (*i.e.*, a Roth 401(k) account, Roth 403(b) account, or Roth 457(b) account).

In summary, the Agency will not accept a rollover of Roth money distributed from any plan or IRA after the participant has received the money. The Agency cannot accept Roth money that is transferred from a Roth IRA. The Agency will, however, accept Roth money that is transferred from a designated Roth account (*i.e.*, a Roth 401(k) account, Roth 403(b) account, or Roth 457(b) account).

Automatic Enrollment Program

Section 1600.34 currently provides that all newly hired Federal employees eligible to participate in the TSP (and Federal employees rehired after a separation in service of 31 or more calendar days and eligible to participate in the TSP) will automatically have 3% of their basic pay contributed to the TSP. These default employee contributions will be made unless the employee elects not to contribute or to contribute at some other level before the end of the employee's first pay period. The introduction of Roth contributions makes it necessary to establish whether default employee contributions are traditional contributions or Roth contributions. Accordingly, the Agency proposes to amend § 1600.34 to provide that all default employee contributions shall be contributed to the employee's traditional balance.

Section 1600.34 also currently provides that an employee can opt out of automatic enrollment and/or terminate default employee contributions by submitting a contribution election. Under the proposed revision to § 1600.11, a contribution election includes an election to change, add, or terminate any type of contribution. For consistency, the Agency also proposes to amend § 1600.34 to provide that an employee can opt out of automatic enrollment and/or terminate default employee contributions by submitting an election to make Roth contributions. A participant can opt out of automatic enrollment or terminate default employee contributions by submitting an election to make Roth contributions even if the election does not result in a change to the employee's total contribution percentage or amount (*e.g.*, a participant elects to contribute 3% of his or her basic pay as Roth contributions and thus terminates all traditional contributions).

Uniformed Services Accounts

The Agency proposes to eliminate Part 1604 of the Agency's regulations. Part 1604 currently contains rules that are uniquely applicable to uniformed services accounts. However, Part 1604 also contains some redundant rules and some rules not uniquely applicable to uniformed services accounts. In addition, the Agency's regulations have evolved such that other parts also contain rules that are uniquely applicable to uniformed services accounts. For this reason, the Agency proposes to eliminate Part 1604 by deleting redundant provisions and relocating the remaining provisions as follows:

Deleted part 1604 provision (5 CFR)	Redundant provision (5 CFR)
1604.5(a)(2)	1655.6(c)
1604.6(a)	1605.11
1604.7(b)	Part 1650, Subpart G
1604.9(a)	1653.2(a)(1)(iii)
1604.10(a)(2)	1655.4
1604.10(a)(3)	1655.6(c)
1604.10(b)	1655.13(a)(3)
1604.10(c)	1655.16(b)

[2] The term "trustee-to-trustee transfer," as it is used in the Agency's regulations, is synonymous with the term "direct rollover" as that term is used in 26 CFR 1.401(a)(31)–1.

Relocated part 1604 provision (5 CFR)	New location (5 CFR)
1604.2	1690.1
1604.3	1600.12(e)
1604.4(a)(first two sentences).	1600.12(e)
1604.4(b)	1600.19(b)
1604.5(a)(first two sentences).	1600.18
1604.5(a)(1)	1600.22(c)
1604.5(b)	1600.33
1604.6(b)	1605.11(d)
1604.7(a)	1650.2(g)
1604.7(c)	1650.2(h)
1604.8	1651.14(a)
1604.9(b)	1653.5(d)
1604.9(c)	1653.5(m)
1604.9(d)	1653.5(n)
1604.10(a)(1)	1655.10(d)

Error Correction

In § 1605.1, the Agency proposes to add definitions for the terms "recharacterization" and "redesignation." Recharacterization is the process of changing a contribution erroneously submitted by an employing agency as a tax-deferred contribution to a tax-exempt contribution or vice versa. Redesignation is the process of changing a contribution erroneously submitted by an employing agency as a traditional contribution to a Roth contribution or vice versa. The Agency also proposes to set forth the rules and procedures for redesignation and recharacterization in a new section numbered 1605.17.

The term "recharacterization" is not synonymous with that term as it is used in regulations or guidance published by the Internal Revenue Service.[3] The Agency uses "recharacterization" and "redesignation" to refer methods of error correction only. That is, a TSP contribution cannot be recharacterized or redesignated at the participant's request. Once a contribution has been made to the participant's account, it cannot be recharacterized or redesignated unless the employing agency erred in its submission. Therefore, a participant cannot elect to retroactively change the tax characteristics of contributions that have already been made. *See* 26 CFR 1.401(k)–1(f)(i).

The Agency also proposes to revise § 1605.12 to provide that positive earnings on an erroneous contribution to a participant's Roth balance will be moved to the participant's traditional balance when the error is corrected. If the Agency were to permit earnings attributable to an erroneous contribution to remain in the Roth balance when the contribution should have been to the participant's traditional balance, the Agency would arguably permit a transfer of value from the participant's traditional balance to the participant's Roth balance. The Internal Revenue Service prohibits any transaction or accounting method involving a participant's Roth balance and any other balance that has the effect of directly or indirectly transferring value from the other balance into the Roth balance. *See* 26 CFR 1.402A–1, Q&A–13.

In § 1605.11, the Agency proposes to amend paragraph (c)(1) to provide that the schedule of makeup contributions elected by the participant must establish the type of contribution (*i.e.*, traditional, Roth, or both) to be made each pay period over the duration of the schedule. The Agency also proposes to add paragraph (c)(12) to provide that a participant cannot contribute a makeup contribution with an "as of" date occurring prior to [Roth implementation date] to his or her Roth balance. If the "as of" date of a late or makeup Roth contribution is earlier than the existing date of a participant's first Roth contribution, the Agency will adjust the start date of the participant's 5 year non-exclusion period (as defined by 26 U.S.C. 402A(d)(2)(B) accordingly.

Transfers From the TSP

The Agency proposes to revise §§ 1650.2, 1650.23, 1651.14, 1653.3, and 1653.5 to add Roth IRAs to the types of retirement savings vehicles to which a participant, beneficiary, or alternate payee might choose to transfer or roll over a TSP distribution. The Agency also proposes to add a new section, 1650.25, to address rules and procedures pertaining to transfers from the TSP.

Proposed § 1650.25 permits a participant to elect to transfer an eligible rollover distribution consisting of funds from his or her traditional balance to a single eligible employer plan or IRA and funds from his or her Roth balance to another eligible employer plan or IRA. The Agency will also allow a participant to elect to transfer the traditional and Roth portions of a payment to the same plan or IRA but, for each type of balance, the election must be made separately and each type of balance will be transferred separately. The Agency will not transfer portions of a participant's traditional balance to two different eligible employer plans and/or IRAs or portions of a participant's Roth balance to two different eligible employer plans and/or IRAs.

Paragraph (c) of § 1650.25 requires the TSP to inform the plan administrator or trustee of the plan or Roth IRA receiving a distribution from a Roth TSP balance of (1) the start date of the participant's Roth 5 year non-exclusion period or the date of the participant's first Roth contribution, and (2) the portion of the distribution that represents Roth contributions. If a participant elects not to transfer a distribution from his or her Roth balance, the Agency will inform the participant of the amount of the distribution that represents Roth contributions.

Paragraph (e) of § 1650.25 clarifies that a participant may transfer a distribution from the TSP to another eligible employer plan or to an IRA only to the extent the transfer is permitted by the Internal Revenue Code.

Pro Rata Distributions

The Agency proposes to amend its regulations to provide that all distributions (including loans, death benefit distributions, court-ordered payments, and required minimum distributions) from the TSP will be disbursed pro rata from a participant's traditional and Roth balance. To allow participants to designate the source of their distributions would require significant record keeping system modifications that would delay the availability of Roth contributions. The Agency intends to revisit this distribution policy three to five years after the Roth contribution feature becomes available.

Internal Revenue Code section 72 precludes the TSP from allocating the portion of an account balance that has already been taxed to a distribution in a manner that is other than pro rata. Moreover, the Agency is required to treat any distribution from a Roth balance as consisting proportionately of contributions and proportionately of earnings. *See* 26 CFR 1.402A–1, Q&A–7. The Agency therefore proposes to amend its regulations to require any distribution (including loans, death benefit distributions, court-ordered payments, and required minimum distributions) from a traditional balance to be pro rated between the tax-deferred balance and tax-exempt contributions (if any). In addition, any distribution (including loans, death benefit distributions, court-ordered payments, and required minimum distributions) from a Roth balance must be pro rated between contributions in the Roth balance and earnings in the Roth balance.

[3] Under regulations published by the Internal Revenue Service, an IRA owner may choose to "recharacterize" certain contributions (*i.e.*, treat a contribution made to one type of IRA as made to a different type of IRA) for a taxable year. 26 CFR 1.408A–5.

Annuities

The Internal Revenue Service prohibits any transaction involving a participant's Roth balance and any other balances that would have the effect of directly or indirectly transferring value from the other balance(s) into the Roth balance. 26 CFR 1.402A–1, Q&A–13. The Internal Revenue Service has noted that it may be difficult for a single annuity contract to have guarantees that apply to both Roth and non-Roth balances without the potential for a prohibited transfer of value between the balances. *See* 72 FR 21107 (third column). Accordingly, the Agency proposes to amend § 1650.14 to prohibit the purchase of one annuity contract with both the traditional portion and the Roth portion of a withdrawal. If a participant who has a Roth balance and a traditional balance desires to purchase an annuity, he or she must purchase two separate contracts; one with the traditional balance and one with the Roth balance.

Section 1650.14 currently requires a minimum amount of $3,500 to purchase an annuity. The Agency proposes to amend § 1650.14 to provide that the $3,500 minimum threshold applies to each annuity purchased. If a participant who has a Roth balance elects to use 100% of a withdrawal to purchase life annuities and both the traditional balance and the Roth balance are below $3,500, the TSP will reject the participant's withdrawal request. If only one balance is below $3,500, then the TSP will pay that balance to the participant in a single payment and use the balance that is $3,500 or above to purchase an annuity.

If a participant who has a Roth balance makes a mixed withdrawal election and both the traditional balance and the Roth balance are below $3,500, the TSP will reject the withdrawal request. If only one balance is below $3,500, then the TSP will pro rate that balance among the participant's other elected withdrawal options and will use the balance that is $3,500 or above to purchase an annuity.

Section 1650.14 currently allows a participant to select from several types of annuities: (1) Single life, (2) joint life of the participant and spouse, and (3) joint life of the participant and a person with an insurable interest in the participant. The Agency proposes to amend § 1650.14 to provide that, if a participant is required to purchase two separate annuities, the participant's withdrawal election among the types of annuities and any available options and features, will apply to both annuities purchased. A participant cannot elect more than one type of annuity per account.

Death Benefits

The Agency proposes to amend § 1651.3 to provide that a beneficiary designation form is not valid if it attempts to designate beneficiaries for the participant's traditional balance and the participant's Roth balance separately. The Agency also proposes to amend § 1651.17 to provide that a valid disclaimer cannot specify which balance shall be disclaimed.

Court Orders

A TSP participant's account balance cannot be assigned or alienated and is not subject to execution, levy, attachment, garnishment, or other legal process except as provided for in 5 U.S.C. 8437(e)(3). Section 8437(e)(3) provides that a participant's account balance shall be subject to an obligation of the Executive Director to make a payment to another person under a domestic relations court order described in section 8467.

A domestic relations court order is enforceable against the TSP only if it is a "qualifying retirement benefits court order" or "qualifying legal process" as defined by 5 CFR 1653. A retirement benefits court order or legal process is qualifying only if it satisfies the requirements and conditions set forth in 5 CFR 1653.2 or 5 CFR 1653.12, respectively. The Agency proposes to amend §§ 1653.2 and 1653.12 to provide that a retirement benefits court order or legal process is not qualifying if it purports to designate the TSP Fund, source of contributions, or balance (*e.g.* traditional, Roth, or tax-exempt) from which the payment or portions of the payment shall be made.

Loans

The Agency proposes to amend § 1655.9 to provide that the TSP will credit loan payments to a participant's traditional and Roth balances in the same proportion that the loan was distributed from the participant's account. This requirement is necessary to ensure that the loan repayment requirements under Internal Revenue Code section 72(p)(2)(C) (*i.e.*, at least quarterly amortization of principal and interest) are satisfied separately with respect to the Roth balance.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, and which is administered by the Agency.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

List of Subjects

5 CFR Part 1600

Government employees, Pensions, Retirement.

5 CFR Part 1601

Government employees, Pensions, Retirement.

5 CFR Part 1604

Military personnel, Pensions, Retirement.

5 CFR Part 1605

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

5 CFR Part 1651

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1653

Alimony, Child support, Claims, Government employees, Pensions, Retirement.

5 CFR Part 1655

Credit, Government employees, Pensions, Retirement.

5 CFR Part 1690

Government employees, Pensions, Retirement.

Gregory T. Long,

Executive Director,

Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the Agency proposes to amend 5 CFR chapter VI as follows:

PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS, CONTRIBUTION ALLOCATIONS, AND AUTOMATIC ENROLLMENT PROGRAM

1. Revise the authority citation for part 1600 to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8432d, 8474(b)(5) and (c)(1).

2. Amend § 1600.11 by revising paragraphs (a)(2) and (3) and adding paragraph (a)(4) to read as follows:

§ 1600.11 Types of elections.

(a) * * *

(2) To change the amount of employee contributions;

(3) To change the type of employee contributions (traditional or Roth); or

(4) To terminate employee contributions.

* * * * *

4. Amend § 1600.12 by adding paragraph (e) to read as follows:

§ 1600.12 Contribution elections.

* * * * *

(e) A uniformed service member may elect to contribute sums to the TSP from basic pay and special or incentive pay (including bonuses). However, in order to contribute to the TSP from special or incentive pay (including bonuses), the uniformed service member must also elect to contribute to the TSP from basic pay. A uniformed service member may elect to contribute from special pay or incentive pay (including bonuses) in anticipation of receiving such pay (that is, he or she does not have to be receiving the special or incentive pay (including bonuses) when the contribution election is made); those elections will take effect when the uniformed service member receives the special or incentive pay (including bonuses).

§ 1600.13 [Removed]

5. In Subpart B, remove § 1600.13.

§ 1600.14 [Redesignated as § 1600.13]

6. In Subpart B, redesignate § 1600.14 as § 1600.13.

7. In Subpart C, add § 1600.18 to read as follows:

§ 1600.18 Separate service member and civilian contributions.

The TSP maintains uniformed services accounts separately from civilian accounts. Therefore, a participant who has made contributions as a uniformed service member and as a civilian employee will have two TSP accounts: a uniformed services account and a civilian account.

8. In Subpart C, add § 1600.19 to read as follows:

§ 1600.19 Employing agency contributions.

(a) *Agency Automatic (1%) Contributions.* Each pay period, any agency that employs an individual covered by FERS must make a contribution to that employee's tax-deferred balance for the benefit of the individual equal to 1% of the basic pay paid to such employee for service performed during that pay period. The employing agency must make Agency Automatic (1%) Contributions without regard to whether the employee elects to make employee contributions.

(b) *Agency Matching Contributions.* (1) Any agency that employs an individual covered by FERS (or any service that employs an individual who has an agreement described in 37 U.S.C. 211(d)) must make a contribution to the employee's tax-deferred balance for the benefit of the employee equal to the sum of:

(i) The amount of the employee's contribution that does not exceed 3% of the employee's basic pay for such pay period; and

(ii) One-half of such portion of the amount of the employee's contributions that exceeds 3% but does not exceed 5% of the employee's basic pay for such period.

(2) A uniformed service member who receives matching contributions under 37 U.S.C. 211(d) is not entitled to matching contributions for contributions deducted from special or incentive pay (including bonuses).

(c) *Timing of employing agency contributions.* An employee appointed or reappointed to a position covered by FERS is immediately eligible to receive employing agency contributions.

9. In Subpart C, add § 1600.20 to read as follows:

§ 1600.20 Types of employee contributions.

(a) *Traditional contributions.* A participant may make traditional contributions.

(b) *Roth contributions.* A participant may make Roth contributions in addition to or in lieu of traditional contributions.

(c) *Contributions from tax-exempt pay.* A uniformed service member who receives pay which is exempt from taxation under 26 U.S.C. 112 will have contributions deducted from such pay and made to his or her traditional or Roth balance in accordance with an election made under paragraph (a) or (b) of this section.

10. Revise § 1600.21 to read as follows:

§ 1600.21 Contributions in whole percentages or whole dollar amounts.

(a) Civilian employees may elect to contribute a percentage of basic pay or a dollar amount, subject to the limits described in § 1600.22. The election must be expressed in whole percentages or whole dollar amounts. A participant may contribute a percentage for one type of contribution and a dollar amount for another type of contribution. If a participant elects to contribute a dollar amount to his or her traditional balance and a dollar amount to his or her Roth balance, but the total dollar amount elected is less than the amount available to be deducted from the participant's basic pay, the employing agency will deduct traditional contributions first and Roth contributions second.

(b) Uniformed services members may elect to contribute a percentage of basic pay and special or incentive pay (including bonus pay) subject to the limits described in § 1600.22. The election must be expressed in a whole percentage for each type of contribution.

11. Revise § 1600.22 to read as follows:

§ 1600.22 Maximum employee contributions.

A participant's employee contributions are subject to the following limitations:

(a) The maximum employee contribution will be limited only by the provisions of the Internal Revenue Code (26 U.S.C.).

(b) A participant may make traditional contributions and Roth contributions during the same year, but the combined total amount of the participant's tax-deferred employee contributions and Roth contributions cannot exceed the applicable Internal Revenue Code elective deferral limit for the year.

(c) A participant who has both a civilian and a uniformed services account can make employee contributions to both accounts, but the combined total amount of the participant's tax-deferred employee contributions and Roth contributions made to both accounts cannot exceed the Internal Revenue Code elective deferral limit for the year.

12. In Subpart C, add § 1600.23 to read as follows:

§ 1600.23 Catch-up contributions.

(a) A participant may make traditional catch-up contributions or Roth catch-up contributions from basic pay at any time during the calendar year if he or she:

(1) Is at least age 50 by the end of the calendar year;

(2) Is making employee contributions at a rate that will result in the participant making the maximum employee contributions permitted under § 1600.22; and

(3) Does not exceed the annual limit on catch-up contributions contained in section 414(v) of the Internal Revenue Code.

(b) An election to make catch-up contributions must be made using a Catch-Up Contribution Election form (or an electronic substitute) and will be valid only through the end of the calendar year in which the election is made. An election to make catch-up contributions will be separate from the participant's regular contribution election. The election must be expressed in whole dollar amounts.

(c) A participant may make traditional catch-up contributions and Roth catch-up contributions during the same year, but the combined total amount of catch-up contributions of both types cannot exceed the applicable Internal Revenue Code catch-up contribution limit for the year.

(d) A participant who has both a civilian account and a uniformed services account may make catch-up contributions to both accounts, but the combined total amount of catch-up contributions to both accounts cannot exceed the Internal Revenue Code catch-up contribution limit for the year.

(e) A participant cannot make catch-up contributions to his or her traditional balance from pay which is exempt from taxation under 26 U.S.C. 112.

(f) A participant may make catch-up contributions to his or her Roth balance from pay which is exempt from taxation under 26 U.S.C. 112.

(g) A participant cannot make catch-up contributions from special or incentive pay (including bonus pay).

(h) Catch-up contributions are not eligible for matching contributions.

§ 1600.31 [Redesignated as § 1600.30]

13. In subpart D, redesignate § 1600.31 as § 1600.30 and revise paragraph (a) and add paragraphs (c) and (d) to read as follows:

§ 1600.30 Accounts eligible for transfer or rollover to the TSP.

(a) A participant who has an open TSP account and is entitled to receive (or receives) an eligible rollover distribution, within the meaning of I.R.C. section 402(c)(4) (26 U.S.C. 402(c)(4)), from an eligible employer plan or a rollover contribution, within the meaning of I.R.C. section 408(d)(3) (26 U.S.C. 408(d)(3)), from a traditional IRA may transfer or roll over that distribution into his or her existing TSP account in accordance with § 1600.31.

* * * * *

(c) Notwithstanding paragraph (b) of this section, the TSP will accept Roth funds that are transferred via trustee-to-trustee transfer from an eligible employer plan that maintains a qualified Roth contribution program described in section 402A of the Internal Revenue Code.

(d) The TSP will accept a transfer or rollover only to the extent the transfer or rollover is permitted by the Internal Revenue Code.

§ 1600.32 [Redesignated as § 1600.31]

14. In subpart D, redesignate § 1600.32 as § 1600.31 and amend it by revising paragraphs (a), (b) introductory text, and (b)(1), the second sentence in paragraph (b)(2), the first sentence in paragraph (b)(3), and paragraphs (b)(4) and (c)(1)(vi) to read as follows:

§ 1600.31 Methods for transferring or rolling over eligible rollover distributions to the TSP.

(a) *Trustee-to-trustee transfer.* (1) A participant may request that the administrator or trustee of an eligible employer plan or traditional IRA transfer any or all of his or her account directly to the TSP by executing and submitting the appropriate TSP form to the administrator or trustee. The administrator or trustee must complete the appropriate section of the form and forward the completed form and the distribution to the TSP recordkeeper or the Agency must receive sufficient evidence from which to reasonably conclude that a contribution is a valid rollover contribution (as defined by 26 CFR 1.401(a)(31)–1, Q&A–14). By way of example, sufficient evidence to conclude a contribution is a valid rollover contribution includes a copy of the plan's determination letter, a letter or other statement from the plan administrator or trustee indicating that it is an eligible employer plan or traditional IRA, a check indicating that the contribution is a direct rollover, or a tax notice from the plan to the participant indicating that the participant could receive a rollover from the plan.

(2) If the distribution is from a Roth account maintained by an eligible employer plan, the plan administrator must also provide to the TSP a statement indicating the first year of the participant's Roth 5 year non-exclusion period under the distributing plan and either:

(i) The portion of the trustee-to-trustee transfer amount that represents Roth contributions (*i.e.* basis); or

(ii) A statement that the entire amount of the trustee-to-trustee transfer is a qualified Roth distribution (as defined by Internal Revenue Code section 402A(d)(2)).

(b) *Rollover by participant.* A participant who has already received a distribution from an eligible employer plan or traditional IRA may roll over all or part of the distribution into the TSP. However, the TSP will not accept a rollover by the participant of Roth funds distributed from an eligible employer plan. A distribution of Roth funds from an eligible employer plan may be rolled into the TSP by trustee-to-trustee transfer only. The TSP will accept a rollover by the participant of tax-deferred amounts if the following requirements and conditions are satisfied:

(1) The participant must complete the appropriate TSP form.

(2) * * * By way of example, sufficient evidence to conclude a contribution is a valid rollover contribution includes a copy of the plan's determination letter, a letter or other statement from the plan indicating that it is an eligible employer plan or traditional IRA, a check indicating that the contribution is a direct rollover, or a tax notice from the plan to the participant indicating that the participant could receive a rollover from the plan.

(3) The participant must submit the completed TSP form, together with a certified check, cashier's check, cashier's draft, money order, treasurer's check from a credit union, or personal check, made out to the "Thrift Savings Plan," for the entire amount of the rollover. * * *

(4) The transaction must be completed within 60 days of the participant's receipt of the distribution from his or her eligible employer plan or traditional IRA. The transaction is not complete until the TSP recordkeeper receives the appropriate TSP form, executed by the participant and administrator, trustee, or custodian, together with the guaranteed funds for the amount to be rolled over.

(c) * * *

(1) * * *

(vi) If not transferred or rolled over, would be includible in gross income for the tax year in which the distribution is paid. This paragraph shall not apply to Roth funds distributed from an eligible employer plan.

* * * * *

§ 1600.33 [Redesignated as § 1600.32]

15. In subpart D, redesignate § 1600.33 as § 1600.32.

§ 1600.32 [Amended]

16. In newly redesignated § 1600.32, in paragraphs (a) through (c), remove the phrase "§§ 1600.31 and 1600.32" and add in its place the phrase "§§ 1600.30 and 1600.31".

16. In Subpart D, add new § 1600.33 to read as follows:

§ 1600.33 Combining uniformed services accounts and civilian accounts.

Uniformed services TSP account balances and civilian TSP account balances may be combined (thus producing one account), subject to the following rules:

(a) An account balance can be combined with another once the TSP is informed (by the participant's employing agency) that the participant has separated from Government service.

(b) Tax-exempt contributions may not be transferred from a uniformed services TSP account to a civilian TSP account.

(c) A traditional balance and a Roth balance cannot be combined.

(d) Funds transferred to the gaining account will be allocated among the TSP Funds according to the contribution allocation in effect for the account into which the funds are transferred.

(e) Funds transferred to the gaining account will be treated as employee contributions and otherwise invested as described at 5 CFR part 1600.

(f) A uniformed servicemember must obtain the consent of his or her spouse before combining a uniformed services TSP account balance with a civilian account that is not subject to FERS spousal rights. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(g) Before the accounts can be combined, any outstanding loans from the losing account must be closed as described in 5 CFR part 1655.

17. Revise § 1600.34 to read as follows:

§ 1600.34 Automatic enrollment program.

(a) All newly hired civilian employees who are eligible to participate in the Thrift Savings Plan and those civilian employees who are rehired after a separation in service of 31 or more calendar days and who are eligible to participate in the TSP will automatically have 3% of their basic pay contributed to the employee's traditional TSP balance (default employee contribution) unless they elect by the end of the employee's first pay period (subject to the agency's processing time frames):

(1) To not contribute;

(2) To contribute at some other level; or

(3) To make Roth contributions in addition to, or in lieu of, traditional contributions.

(b) After being automatically enrolled, a participant may elect, at any time, to terminate default employee contributions, change his or her contribution percentage or amount, or make Roth contributions in addition to, or in lieu of, traditional contributions.

18. Amend § 1600.37 by revising paragraphs (a) and (b) to read as follows:

§ 1600.37 Employing agency notice.

* * * * *

(a) That default employee contributions equal to 3 percent of the employee's basic pay will be deducted from the employee's pay and contributed to the employee's traditional TSP balance on the employee's behalf if the employee does not make an affirmative contribution election;

(b) The employee's right to elect to not have default employee contributions made to the TSP on the employee's behalf, to elect to have a different percentage or amount of basic pay contributed to the TSP, or to make Roth contributions;

* * * * *

PART 1601—PARTICIPANTS' CHOICES OF TSP FUNDS

19. Revise the authority citation for part 1601 to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8438, 8474(b)(5) and (c)(1).

20. Amend § 1601.13 by revising paragraph (a)(5) and paragraph (c) to read as follows:

§ 1601.13 Elections.

(a) * * *

(5) Once a contribution allocation becomes effective, it remains in effect until it is superseded by a subsequent contribution allocation or the participant withdraws his or her entire account. If a separated participant is rehired and had not withdrawn his or her entire TSP account, the participant's last contribution allocation before separation from Government service will be effective until a new allocation is made. If, however, the participant had withdrawn his or her entire TSP account, then the participant's contributions will be allocated to the G Fund until a new allocation is made.

* * * * *

(c) *Contribution elections.* A participant may designate the amount or type of employee contributions he or she wishes to make to the TSP or may stop contributions only in accordance with 5 CFR part 1600.

PART 1604—[REMOVED AND RESERVED]

21. Under the authority of 5 U.S.C. 8474(b)(5), remove and reserve part 1604.

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

22. Revise the authority citation for part 1605 to read as follows:

Authority: 5 U.S.C. 8351, 8432a, 8432d, 8474(b)(5) and (c)(1). Subpart B also issued under section 1043(b) of Pub. L. 104–106, 110 Stat. 186 and § 7202(m)(2) of Pub. L. 101–508, 104 Stat. 1388.

23. Amend § 1605.1(b) as follows:

a. Revise the definition of *attributable pay date.*

b. Add definitions for *recharacterization, recharacterization record, redesignation,* and *redesignation record.*

The revision and additions read as follows:

§ 1605.1 Definitions.

* * * * *

(b) * * *

Attributable pay date means:

(1) The pay date of a contribution that is being redesignated from traditional to Roth, or vice versa;

(2) In the case of the uniformed services, the pay date of a contribution that is being recharacterized from tax-deferred to tax-exempt, or vice versa; or

(3) The pay date of an erroneous contribution for which a negative adjustment is being made. However, if the erroneous contribution for which a negative adjustment is being made was a makeup or late contribution, the attributable pay date is the "as of" date of the erroneous makeup or late contribution.

* * * * *

Recharacterization means the process of changing a contribution that the employing agency erroneously submitted as a tax-deferred contribution to a tax–exempt contribution (or vice versa). Recharacterization is a method of error correction only. It applies only to the traditional balance of a uniformed services account.

Recharacterization record means a data record submitted by an employing agency to recharacterize a tax-deferred contribution that the employing agency erroneously submitted as a tax-exempt contribution (or vice versa).

Redesignation means the process of moving a contribution (and its associated positive earnings) from a participant's traditional balance to the participant's Roth balance or vice versa in order to correct an employing agency error that caused the contribution to be submitted to the wrong balance. Redesignation is a method of error correction only. A participant cannot request the redesignation of contributions unless the employing agency made an error in the submission of the contributions.

Redesignation record means a data record submitted by an employing agency to redesignate a contribution that the employing agency erroneously submitted to the wrong balance (traditional or Roth).

24. Amend § 1605.11 by revising paragraph (c)(1) and the second sentence in paragraph (c)(8), by adding paragraphs (c)(12) and (13), and by adding paragraph (d) to read as follows:

§ 1605.11 Makeup of missed or insufficient contributions.

* * * * *

(c) * * *

(1) The schedule of makeup contributions elected by the participant must establish the dollar amount of the contributions and the type of employee contributions (traditional or Roth) to be made each pay period over the duration of the schedule. The contribution amount per pay period may vary during the course of the schedule, but the total amount to be contributed must be established when the schedule is created. After the schedule is created, a participant may, with the agreement of his or her agency, elect to change his or her payment amount (*e.g.*, to accelerate payment) or elect to change the type of employee contributions (traditional or Roth). The length of the schedule may not exceed four times the number of pay periods over which the error occurred.

* * * * *

(8) * * * If a participant separates from Government service, the participant may elect to accelerate the payment schedule by a lump sum contribution from his or her final paycheck.

* * * * *

(12) A participant is not eligible to contribute makeup contributions with an "as of" date occurring prior to [Roth implementation date] to his or her Roth balance.

(13) If the "as of" date of a Roth contribution that is submitted as a makeup contribution is earlier than the participant's existing Roth initiation date, the TSP will adjust the participant's Roth initiation date.

(d) *Missed bonus contributions.* This paragraph (d) applies when an employing agency fails to implement a contribution election that was properly submitted by a uniformed service member requesting that a TSP contribution be deducted from bonus pay. Within 30 days of receiving the employing agency's acknowledgment of the error, a uniformed service member may establish a schedule of makeup contributions with his or her employing agency to replace the missed contribution through future payroll deductions. These makeup contributions can be made in addition to any TSP contributions that the uniformed service member is otherwise entitled to make.

(1) The schedule of makeup contributions may not exceed four times the number of months it would take for the uniformed service member to earn basic pay equal to the dollar amount of the missed contribution. For example, a uniformed service member who earns $29,000 yearly in basic pay and who missed a $2,500 bonus contribution to the TSP can establish a schedule of makeup contributions with a maximum duration of 8 months. This is because it takes the uniformed service member 2 months to earn $2,500 in basic pay (at $2,416.67 per month).

(2) At its discretion, an employing agency may set a ceiling on the length of a schedule of employee makeup contributions. The ceiling may not, however, be less than twice the number of months it would take for the uniformed service member to earn basic pay equal to the dollar amount of the missed contribution.

25. Amend § 1605.12 by revising paragraph (d)(1) as follows:

§ 1605.12 Removal of erroneous contributions.

* * * * *

(d) * * *

(1) If, on the posting date, the amount calculated under paragraph (c) of this section is equal to or greater than the amount of the proposed negative adjustment, the full amount of the adjustment will be removed from the participant's account and returned to the employing agency. Earnings on the erroneous contribution will remain in the participant's account. However, positive earnings on an erroneous contribution to the participant's Roth balance will be moved to the participant's traditional balance;

* * * * *

26. Amend § 1605.14 by revising the first sentence in paragraph (b)(4) and the first sentence in paragraph (c)(3) to read as follows:

§ 1605.14 Misclassified retirement system coverage.

* * * * *

(b) * * *

(4) If the retirement coverage correction is a Federal Employees' Retirement Coverage Act (FERCCA) correction, the employing agency must submit makeup employee contributions on late payment records. The participant is entitled to breakage on contributions from all sources. * * *

* * * * *

(c) * * *

(3) The TSP will consider a participant to be separated from Government service for all TSP purposes and the employing agency must submit an employee data record to reflect separation from Government service. * * *

* * * * *

27. Amend § 1605.15 by adding paragraph (d) to read as follows:

§ 1605.15 Reporting and processing late contributions and late loan payments.

* * * * *

(d) If the "as of" date of a late Roth contribution is earlier than the participant's existing Roth initiation date, the TSP will adjust the participant's Roth initiation date.

28. In Subpart B, add § 1605.17 to read as follows:

§ 1605.17 Redesignation and recharacterization.

(a) *Applicability.* This section applies to the redesignation of contributions which, due to employing agency error, were contributed to the participant's traditional balance when they should have been contributed to the participant's Roth balance or were contributed to the participant's Roth balance when they should have been contributed to the participant's traditional balance. This section also applies to the recharacterization of contributions which, due to employing agency error, were contributed as tax-deferred contributions when they should have been contributed as tax-exempt contributions (or vice versa). It is the responsibility of the employing agency to determine whether it has made an error that entitles a participant to error correction under this section.

(b) *Method of correction.* The employing agency must promptly submit a redesignation record or a recharacterization record in accordance with this part and the procedures provided to employing agencies by the Board in bulletins or other guidance.

(c) *Processing redesignations and recharacterizations.* (1) Upon receipt of a properly submitted redesignation

record, the TSP shall treat the erroneously submitted contribution (and associated positive earnings) as if the contribution had been made to the correct balance on the date that it was contributed to the wrong balance. The TSP will adjust the participant's traditional balance and the participant's Roth balance accordingly. The TSP will also adjust the participant's Roth initiation date as necessary.

(2) Upon receipt of a properly submitted recharacterization record or recharacterization request, the TSP will change the tax characterization of the erroneously characterized contribution.

(3) Agency Automatic (1%) Contributions and matching contributions cannot be redesignated as Roth contributions or recharacterized as tax-exempt contributions.

(4) There is no breakage associated with redesignation or recharacterization actions.

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

29. Revise the authority citation for part 1650 to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

30. Amend § 1650.2 by revising the section heading and paragraphs (f) and (g) and by adding paragraph (h) to read as follows:

§ 1650.2 Eligibility and general rules for a TSP withdrawal.

* * * * *

(f) A participant can elect to have any portion of a single or monthly payment that is not transferred to an eligible employer plan, traditional IRA, or Roth IRA deposited directly, by electronic funds transfer (EFT), into a savings or checking account at a financial institution in the United States.

(g) If a participant has a civilian TSP account and a uniformed services TSP account, the rules in this part apply to each account separately. For example, the participant is eligible to make one age-based in-service withdrawal from each account. A separate withdrawal request must be made for each account.

(h) All withdrawals will be distributed pro rata from the participant's traditional and Roth balances. The distribution from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The distribution from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all withdrawals will be distributed pro rata from all TSP Funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each TSP Fund or source of contributions on the day the withdrawal is processed.

31. Amend § 1650.11 by revising the first sentence in paragraph (c) to read as follows:

§ 1650.11 Withdrawal elections.

* * * * *

(c) If a participant's vested account balance is less than $200 when he or she separates from Government service, the TSP will automatically pay the balance to the participant at his or her TSP address of record.* * *

32. Amend § 1650.14 by:

a. Revising paragraph (a);

b. Redesignating existing paragraphs (b) through (d) as paragraphs (f) through (h);

c. Redesignating existing paragraphs (e) through (g) as (j) through (l); and

d. Adding new paragraphs (b), (c), (d), (e) and (i).

The revision and additions read as follows:

§ 1650.14 Annuities.

(a) A participant electing a full post-employment withdrawal can use all or a portion of his or her account balance to purchase a life annuity.

(b) If a participant has a traditional balance and a Roth balance, the TSP must purchase two separate annuity contracts for the participant: one from the portion of the withdrawal distributed from his or her traditional balance and one from the portion of the withdrawal distributed from his or her Roth balance.

(c) A participant cannot select only one balance (traditional or Roth) from which to purchase an annuity.

(d) A participant cannot elect to purchase an annuity contract with less than $3,500.

(1) If a participant who has a traditional balance and a Roth balance elects to use 100% of his or her withdrawal to purchase a life annuity and both the traditional balance and the Roth balance are below $3,500, the TSP will reject the participant's request. If only one balance is below $3,500, then the TSP will pay that balance to the participant in a single payment and use the balance that is at least $3,500 to purchase an annuity in accordance with the participant's election.

(2) If a participant who has a Roth balance and traditional balance makes a mixed withdrawal election and both the traditional portion of the amount designated to purchase an annuity and the Roth portion of the amount designated to purchase an annuity are below $3,500, the TSP will reject the withdrawal request. If only one portion is below $3,500, then the TSP will pro rate that portion among the participant's other elected withdrawal options and use the portion that is at least $3,500 to purchase an annuity in accordance with the participant's election.

(e) The TSP will purchase the annuity from the TSP's annuity vendor using the participant's entire account balance or the portion specified, unless an amount must be paid directly to the participant to satisfy any applicable minimum distribution requirement of the Internal Revenue Code. In the event that a minimum distribution is required by section 401(a)(9) of the Internal Revenue Code before the date of the first annuity payment, the TSP will compute that amount, and pay it directly to the participant.

* * * * *

(i) If the TSP must purchase two annuity contracts, the type of annuity, the annuity features, and the joint annuitant (if applicable) selected by the participant will apply to both annuities purchased. A participant cannot elect more than one type of annuity by which to receive a withdrawal, or portion thereof, from any one account.

* * * * *

33. Revise § 1650.23 to read as follows:

§ 1650.23 Accounts of less than $200.

Upon receiving information from the employing agency that a participant has been separated for more than 31 days and that any outstanding loans have been closed, the TSP record keeper will distribute the entire amount of his or her account balance if the account balance is $5.00 or more but less than $200. The TSP will not pay this amount by EFT. The participant may not elect to leave this amount in the TSP, nor will the TSP transfer this amount to an eligible employer plan, traditional IRA, or Roth IRA. However, the participant may elect to roll over this payment into an eligible employer plan, traditional IRA, or Roth IRA to the extent the roll over is permitted by the Internal Revenue Code.

34. Revise § 1650.24 to read as follows:

§ 1650.24 How to obtain a post-employment withdrawal.

To request a post-employment withdrawal, a participant must submit to the TSP record keeper a properly completed paper TSP post-employment withdrawal request form or use the TSP Web site to initiate a request.

35. In Subpart C, add § 1650.25 to read as follows:

§ 1650.25 Transfers from the TSP.

(a) The TSP will, at the participant's election, transfer all or any portion of an eligible rollover distribution (as defined by section 402(c)(4) of the Internal Revenue Code) of $200 or more directly to an eligible employer plan or an IRA.

(b) If a withdrawal includes a payment from a participant's traditional balance and a payment from the participant's Roth balance, the TSP will, at the participant's election, transfer all or a portion of the payment from the traditional balance to a single plan or IRA and all or a portion of the payment from the Roth balance to another plan or IRA. The TSP will also allow the traditional and Roth portions of a payment to be transferred to the same plan or IRA but, for each type of balance, the election must be made separately by the participant and each type of balance will be transferred separately. However, the TSP will not transfer portions of the participant's traditional balance to two different institutions or portions of the participant's Roth balance to two different institutions.

(c) If a withdrawal includes an amount from a participant's Roth balance and the participant elects to transfer that amount to another eligible employer plan or Roth IRA, the TSP will inform the plan administrator or trustee of the start date of the participants Roth 5 year non-exclusion period or the participant's Roth initiation date, and the portion of the distribution that represents Roth contributions. If a withdrawal includes an amount from a participant's Roth balance and the participant does not elect to transfer the amount, the TSP will inform the participant of the portion of the distribution that represents Roth contributions.

(d) Tax-exempt contributions can be transferred only if the IRA or plan accepts such funds.

(e) The TSP will transfer distributions only to the extent that the transfer is permitted by the Internal Revenue Code.

36. Amend § 1650.31 by revising the first sentence in paragraph (a) and revising paragraph (b) to read as follows:

§ 1650.31 Age-based withdrawals.

(a) A participant who has reached age 59½ and who has not separated from Government service is eligible to withdraw all or a portion of his or her vested TSP account balance in a single payment. * * *

(b) An age-based withdrawal is an eligible rollover distribution, so a participant may request that the TSP transfer all or a portion of the withdrawal to a traditional IRA, an eligible employer plan, or a Roth IRA in accordance with § 1650.25.

* * * * *

37. Amend § 1650.41 by revising the second sentence to read as follows:

§ 1650.41 How to obtain an age-based withdrawal.

* * * A participant's ability to complete an age-based withdrawal on the Web will depend on his or her retirement system coverage, marital status, and whether or not all or part of the withdrawal will be transferred to an eligible employer plan, traditional IRA, or Roth IRA.

PART 1651—DEATH BENEFITS

38. Revise the authority citation for part 1651 to read as follows:

Authority: 5 U.S.C. 8424(d), 8432d, 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

39. Amend § 1651.3 by adding paragraph (c)(8) to read as follows:

§ 1651.3 Designation of beneficiary.

* * * * *

(c) * * *

(8) Not attempt to designate beneficiaries for the participant's traditional balance and the participant's Roth balance separately.

* * * * *

40. Amend § 1651.14, by:

a. Redesignating paragraphs (d) through (i) as paragraphs (c)(1) through (c)(6), respectively; and

b. Revising paragraphs (a) through newly redesignated paragraph (c) introductory text and newly redesignated paragraph (c)(4) to read as follows:

§ 1651.14 How payment is made.

(a) Each beneficiary's death benefit will be disbursed pro rata from the participant's traditional and Roth balances. The payment from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all death benefits will be disbursed pro rata from all TSP Funds in which the deceased participant's account is invested. All pro rated amounts will be based on the balances in each TSP Fund or source of contributions on the day the disbursement is made. Disbursement will be made separately for each entitled beneficiary.

(b) *Spouse beneficiaries.* The TSP will automatically transfer a surviving spouse's death benefit to a beneficiary participant account (described in § 1651.19) established in the spouse's name. The TSP will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than $200 on the date the account is established. The Agency also will not transfer this amount or pay it by electronic funds transfer. Instead the spouse will receive an immediate distribution in the form of a check.

(c) *Nonspouse beneficiaries.* The TSP record keeper will send notice of pending payment to each beneficiary. Payment will be sent to the address that is provided on the participant's TSP designation of beneficiary form unless the TSP receives written notice of a more recent address. All beneficiaries must provide the TSP record keeper with a taxpayer identification number; *i.e.*, Social Security number (SSN), employee identification number (EIN), or individual taxpayer identification number (ITIN), as appropriate. The following additional rules apply to payments to nonspouse beneficiaries:

* * * * *

(4) *Payment to inherited IRA on behalf of a nonspouse beneficiary.* If payment is to an inherited IRA on behalf of a nonspouse beneficiary, the check will be made payable to the account. Information pertaining to the inherited IRA must be submitted by the IRA trustee. A payment to an inherited IRA will be made only in accordance with the rules set forth in 5 CFR 1650.25.

* * * * *

41. Amend § 1651.17 by revising paragraphs (c) and (d) to read as follows:

§ 1651.17 Disclaimer of benefits.

* * * * *

(c) *Invalid disclaimer.* A disclaimer is invalid if it:

(1) Is revocable;

(2) Directs to whom the disclaimed benefit should be paid; or

(3) Specifies which balance (traditional, Roth, or tax-exempt) is to be disclaimed.

(d) *Disclaimer effect.* The disclaimed share will be paid as though the beneficiary predeceased the participant, according to the rules set forth in § 1651.10. Any part of the death benefit which is not disclaimed will be paid to the disclaimant pursuant to § 1651.14.

42. Amend § 1651.19 by adding paragraph (c)(3) and revising paragraph (m)(3) to read as follows:

§ 1651.19 Beneficiary participant accounts.

* * * * *

(c) * * *

(3) The TSP will disburse minimum distributions pro rata from the beneficiary participant's traditional balance and the beneficiary participant's Roth balance.

* * * * *

(m) * * *

(3) If a uniformed services beneficiary participant account contains tax-exempt contributions, any payments or withdrawals from the account will be distributed pro rata from the tax-deferred balance and the tax-exempt balance;

* * * * *

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

43. Revise the authority citation for part 1653 to read as follows:

Authority: 5 U.S.C. 8432d, 8435, 8436(b), 8437(e), 8439(a)(3), 8467, 8474(b)(5) and 8474(c)(1).

44. Amend § 1653.2 by revising paragraphs (b)(2) and (5), removing the period and adding "; and" to the end of paragraph (b)(6), and adding paragraph (b)(7) to read as follows:

§ 1653.2 Qualifying retirement benefits court orders.

* * * * *

(b) * * *

(2) An order relating to a TSP account that contains only nonvested money, unless the money will become vested within 30 days of the date the TSP receives the order if the participant were to remain in Government service;

* * * * * *

(5) An order that does not specify the account to which the order applies, if the participant has both a civilian TSP account and a uniformed services TSP account;

* * * * *

(7) An order that designates the TSP Fund, source of contributions, or balance (*e.g.* traditional, Roth, or tax-exempt) from which the payment or portions of the payment shall be made.

45. Amend § 1653.3 by revising paragraph (f)(4)(iv) to read as follows:

§ 1653.3 Processing retirement benefits court orders.

* * * * *

(f) * * *

(4) * * *

(iv) Information and the form needed to transfer the payment to an eligible employer plan, traditional IRA, or Roth IRA (if the payee is the current or former spouse of the participant); and

* * * * *

46. Amend § 1653.5 by revising paragraph (a)(1)(i), paragraph (d), and paragraph (e)(1), and by adding paragraphs (m) and (n) to read as follows:

§ 1653.5 Payment.

(a) * * *

(1) * * *

(i) The payee makes a tax withholding election, requests payment by EFT, or requests a transfer of all or a portion of the payment to a traditional IRA, Roth IRA, or eligible employer plan (the TSP decision letter will provide the forms a payee must use to choose one of these payment options); and

* * * * *

(d) Payment will be made pro rata from the participant's traditional and Roth balances. The distribution from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all payments will be distributed pro rata from all TSP Funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each fund or source of contributions on the day the disbursement is made. The TSP will not honor provisions of a court order that require payment to be made from a specific TSP Fund, source of contributions, or balance.

(e) * * *

(1) If payment is made to the current or former spouse of the participant, the distribution will be reported to the Internal Revenue Service (IRS) as income to the payee. If the court order specifies a third-party mailing address for the payment, the TSP will mail to the address specified any portion of the payment that is not transferred to a traditional IRA, Roth IRA, or eligible employer plan.

* * * * *

(m) A payee who is a current or former spouse of the participant may elect to transfer a court-ordered payment to a traditional IRA, eligible employer plan, or Roth IRA. Any election permitted by this paragraph (m) must be made pursuant to the rules described in 5 CFR 1650.25.

(n) If the TSP maintains an account (other than a beneficiary participant account) for a court order payee who is the current or former spouse of the participant, the payee can request that the TSP transfer the court-ordered payment to the payee's TSP account in accordance with the rules described in 5 CFR 1650.25. However, any pro rata share attributable to tax-exempt contributions cannot be transferred; instead it will be paid directly to the payee.

47. Amend § 1653.12 by revising paragraphs (c)(2) by adding paragraph (c)(6) to read as follows:

§ 1653.12 Qualifying legal processes.

* * * * *

(c) * * *

(2) A legal process relating to a TSP account that contains only nonvested money, unless the money will become vested within 30 days of the date the TSP receives the order if the participant were to remain in Government service;

* * * * *

(6) A legal process that designates the specific TSP Fund, source of contributions, or balance from which the payment or portions of the payment shall be made.

PART 1655—LOAN PROGRAM

48. Revise the authority citation for part 1655 to read as follows:

Authority: 5 U.S.C. 8432d, 8433(g), 8439(a)(3) and 8474.

49. Amend § 1655.9 by redesignating paragraph (c) as paragraph (d) and revising it and by adding new paragraph (c) to read as follows:

§ 1655.9 Effect of loans on individual account.

* * * * *

(c) The loan principal will be disbursed pro rata from the participant's traditional and Roth balances. The disbursement from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The disbursement from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all loan disbursements will be distributed pro rata from all TSP Funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each TSP Fund or source of contributions on the day the disbursement is processed.

(d) Loan payments, including both principal and interest, will be credited to the participant's individual account. Loan payments will be credited to the appropriate TSP Fund in accordance with the participant's most recent contribution allocation. Loan payments will be credited to the participant's traditional and Roth balances in the same proportion that the loan was distributed from the participant's account.

50. Amend § 1655.10 by adding paragraph (d) to read as follows:

§ 1655.10 Loan application process.

* * * * *

(d) If the TSP maintains a uniformed services account and a civilian account for an individual, a separate loan application must be made for each account.

51. Amend § 1655.15 by revising paragraph (b) to read as follows:

§ 1655.15 Taxable distributions.

* * * * *

(b) If a taxable distribution occurs in accordance with paragraph (a) of this section, the Board will notify the participant of the amount and date of the distribution. The Board will report the distribution to the Internal Revenue Service as income for the year in which it occurs.

* * * * *

PART 1690—THRIFT SAVINGS PLAN

52. The authority citation for part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

53. Amend § 1690.1 as follows:

a. Remove the definitions of *regular contributions* and *combat zone compensation.*

b. Revise the definitions of *account or individual account, catch-up contributions, contribution election, employing agency, separation from Government service, source of contributions, tax-deferred balance,* and *tax-exempt balance.*

c. Add definitions for *bonus contributions, civilian account, civilian employee, employee contributions, Federal civilian retirement system, Ready Reserve, Roth 5 year non-exclusion period. Roth balance, Roth contributions, Roth initiation date, Roth IRA, uniformed service member, special or incentive pay, tax-deferred contributions, tax-exempt contributions, traditional balance, traditional contributions, traditional IRA, trustee-to-trustee transfer,* and *uniformed services account.*

§ 1690.1 Definitions.

As used in this chapter:

Account or individual account means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a). The TSP offers four types of accounts: civilian participant accounts, uniformed services accounts, civilian beneficiary participant accounts, and uniformed services beneficiary participant accounts. Each type of account may contain a traditional balance, a Roth balance, or both.

* * * * *

Bonus contributions means contributions made by a participant from a bonus as defined in 37 U.S.C. chapter 5.

* * * * *

Catch-up contributions means TSP contributions from basic pay that are made by participants age 50 and over, which exceed the elective deferral limit of 26 U.S.C. 402(g) and meet the requirements of 5 CFR 1600.23.

Civilian account means a TSP account to which contributions have been made by or on behalf of a civilian employee.

* * * * *

Civilian employee means a TSP participant covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or equivalent retirement plan.

* * * * *

Contribution election means a request by an employee to start contributing to the TSP, to change the amount or type of contributions (traditional or Roth) made to the TSP each pay period, or to terminate contributions to the TSP.

* * * * *

Employee contributions means traditional contributions and Roth contributions. Employee contributions are made at the participant's election pursuant to § 1600.12 and are deducted from compensation paid to the employee.

* * * * *

Employing agency means the organization (or the payroll office that services the organization) that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual. It includes the uniformed services and their servicing payroll office(s).

* * * * *

Federal civilian retirement system means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, or any equivalent Federal civilian retirement system.

* * * * *

Ready Reserve means those members of the uniformed services described at 10 U.S.C. 10142.

Roth 5 year non-exclusion period means the period of five consecutive calendar years beginning on the first day of the calendar year in which the participant's Roth initiation date occurs. It is the period described in section 402A(d)(2)(B) of the Internal Revenue Code.

Roth balance means the sum of:

(1) Roth contributions and associated earnings; and

(2) Amounts transferred to the TSP from a Roth account maintained by an eligible employer plans and earnings on those amounts.

Roth contributions means employee contributions made to the participant's Roth balance which are authorized by 5 U.S.C. 8432d. Roth contributions may be deducted from taxable pay on an after-tax basis or from pay exempt from taxation under 26 U.S.C. 112.

Roth initiation date means

(1) The earlier of:

(i) The actual date of a participant's first Roth contribution to the TSP;

(ii) The "as of" date or attributable pay date (as defined in § 1605.1 of this subchapter) that established the date of the participant's first Roth contribution to the TSP; or

(iii) The date used, by a plan from which the participant directly transferred Roth money into the TSP, to measure the participant's Roth five year non-exclusion period.

(2) If a participant has a civilian account and a uniformed services account, the Roth initiation date for both accounts will be the same.

Roth IRA means an individual retirement plan described in Internal Revenue Code section 408A (26 U.S.C. 408A).

* * * * *

Separation from Government service means generally the cessation of employment with the Federal Government. For civilian employees it means termination of employment with the U.S. Postal Service or with any other employer from a position that is deemed to be Government employment for purposes of participating in the TSP for 31 or more full calendar days. For uniformed services members, it means the discharge from active duty or the Ready Reserve or the transfer to inactive status or to a retired list pursuant to any provision of title 10 of the United States Code. The discharge or transfer may not be followed, before the end of the 31-day period beginning on the day following the effective date of the discharge, by resumption of active duty, an appointment to a civilian position covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or an equivalent retirement system, or continued service in or affiliation with the Ready Reserve. Reserve component members serving on full-time active duty who terminate their active duty status and subsequently participate in the drilling reserve are said to continue in the Ready Reserve. Active component members

who are released from active duty and subsequently participate in the drilling reserve are said to affiliate with the Ready Reserve.

* * * * *

Source of contributions means traditional contributions, Roth contributions, Agency Automatic (1%) Contributions, or matching contributions. All amounts in a participant's account are attributed to one of these four sources. Catch-up contributions, transfers, rollovers, and loan payments are included in the traditional contribution source or the Roth contribution source.

Special or incentive pay means pay payable as special or incentive pay under 37 U.S.C. chapter 5.

* * * * *

Tax-deferred balance means the sum of:

(1) All contributions, rollovers, and transfers in a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant and earnings on those amounts; and

(ii) Earnings on any tax-exempt contributions in the traditional balance. The tax-deferred balance does not include tax-exempt contributions.

Tax-deferred contributions means employee contributions made to a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant.

Tax-exempt balance means the sum of tax-exempt contributions within a participant's traditional balance. It does not include earnings on such contributions. Only a traditional balance in a uniformed services participant account or a uniformed services beneficiary participant account may contain a tax-exempt balance.

Tax-exempt contributions means employee contributions made to the participant's traditional balance from pay which is exempt from taxation by 26 U.S.C. 112. The Federal income tax exclusion at 26 U.S.C. 112 is applicable to compensation for active service during a month in which a uniformed service member serves in a combat zone. The term "tax-exempt contributions" does not include contributions made to the participant's Roth balance from pay which is exempt from taxation by 26 U.S.C. 112.

* * * * *

Traditional balance means the sum of:

(1) Tax-deferred contributions and associated earnings;

(2) Tax-deferred amounts rolled over or transferred into the TSP and associated earnings;

(3) Tax-exempt contributions and associated earnings;

(4) Matching contributions and associated earnings;

(5) Agency Automatic (1%) Contributions and associated earnings.

Traditional contributions means tax-deferred employee contributions and tax-exempt employee contributions made to the participant's traditional balance.

Traditional IRA means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)) and an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract).

Trustee-to-trustee transfer or transfer means the payment of an eligible rollover distribution (as defined in section 402(c)(4) of the Internal Revenue Code) from an eligible employer plan or IRA directly to another eligible employer plan or IRA at the participant's request.

* * * * *

Uniformed services account means a TSP account to which contributions have been made by or on behalf of a member of the uniformed services.

Uniformed service member means a member of the uniformed services on active duty or a member of the Ready Reserve in any pay status.

* * * * *

[FR Doc. 2012–2489 Filed 2–7–12; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 300, 301, 302, 303, 304, 305, 306, 307, 308, 310, 311, and 314

RIN 0610–XA08

[Docket No. 120202093–2093–01]

Economic Development Administration Regulatory Revision; Comment Period Extension

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On December 7, 2011, the Department of Commerce's Economic Development Administration (EDA) published a notice of proposed rulemaking (NPRM) in the **Federal Register** proposing and requesting public input on changes to EDA's operating regulations (76 FR 76492). EDA originally requested comments on the NPRM by February 6, 2012. From January 24, 2012 through February 1, 2012, EDA's Web site experienced technical difficulties, and the online feature for submitting comments on this rulemaking through EDA's Web site was unavailable. Although the other methods for submitting comments—the Federal eRulemaking Portal and regular mail to EDA's office—remained available during this period, EDA wants to ensure stakeholders have the maximum amount of time and optimal access to provide EDA with comments on its proposed regulatory changes. Therefore, EDA publishes this notice to extend the deadline for submitting comments on the December 7, 2011 NPRM to February 15, 2012.

DATES: Comments must be received or postmarked if submitting by mail no later than 5 p.m Eastern Time on February 15, 2012.

ADDRESSES: Comments will continue to be accepted by the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web Site: http://www.eda.gov/.* EDA has created an online feature for submitting comments. Please follow the instructions at *http://www.eda.gov/.*
- *Mail:* Economic Development Administration, Office of Chief Counsel, Room 5718, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230. Please indicate "Comments on EDA's regulations" and Docket No. 110726429–1418–01 on the envelope.

FOR FURTHER INFORMATION CONTACT: Jamie Lipsey, Acting Deputy Chief Counsel, Office of Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Room 5718, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4687.

SUPPLEMENTARY INFORMATION: EDA's regulations, which are codified 13 CFR chapter III, provide the framework through which the agency administers its economic development assistance programs. In 2011, EDA requested comments on these regulations from stakeholders and the public, and conducted an internal review of the regulations, to ensure they reflect and incentivize innovation and collaboration and reflect best practices in economic development. In the December 7, 2011 NPRM (76 FR 76492), EDA proposed changes to these regulations and requested public input on the proposed changes. EDA's Web site recently experienced technical difficulties that made it impossible for

members of the public to comment on the proposed rule through EDA's Web site. This issue has since been resolved. However, because of strong interest in this initiative, and to ensure stakeholders and the public have ample time and optimal access to comment on these changes, EDA is extending the deadline for submitting comments from February 6, 2012 to February 15, 2012.

Comments should be submitted to EDA as described in **ADDRESSES** above. EDA encourages using the online feature of the agency's Web site to submit comments and suggestions to EDA's proposed regulatory changes. The Web site is easily accessible at *http://www.eda.gov/*, and offers participants an opportunity to view the comments of others. EDA will consider all comments submitted electronically by 5 p.m. Eastern Time on February 15, 2012, or that are postmarked by that date, as referenced in **DATES** above. EDA will not accept public comments accompanied by a request that part or all of the material submitted by treated confidentiality for any reason; EDA will not consider such comments and will return them and their accompanying materials to the commenter. All public comments (including those faxed or emailed to the agency) submitted in response to this notice must be in writing and will be a matter of public record.

Dated: February 2, 2012.

Jamie Lipsey,

Acting Deputy Chief Counsel, Economic Development Administration.

[FR Doc. 2012–2743 Filed 2–7–12; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0104 Directorate Identifier 2011–NM–279–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. This proposed AD was prompted by a report indicating that a fire originated near the first officer's area, which caused extensive damage to the flight deck. This proposed AD would require replacing the low-pressure oxygen hoses with non-conductive low-pressure oxygen hoses in the flight compartment. We are proposing this AD to prevent electrical current from passing through the low-pressure oxygen hose internal anti-collapse spring, which can cause the low-pressure oxygen hose to melt or burn, and a consequent oxygen-fed fire in the flight compartment.

DATES: We must receive comments on this proposed AD by March 26, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone (206) 544–5000, extension 1; fax (206) 766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356. For information on the availability of this material at the FAA, call (425) 227–1221.

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 (phone: (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Susan Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6457; fax: (425) 917–6590; email: *susan.l.monroe@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–0104 2011–NM–279–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

We received a report indicating that a fire originated near the first officer's area, which caused extensive damage to the flight deck. The cause of this incident is unknown. One scenario of the causes being considered is that an electrical fault or short circuit resulted in electrical heating of the low-pressure oxygen hoses in the flight crew oxygen system. This condition, if not corrected, could cause electrical current to pass through the low-pressure oxygen hose internal anti-collapse spring, which can cause the low-pressure oxygen hose to melt or burn, and a consequent oxygen-fed fire in the flight compartment.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 777–35A0027, dated December 15, 2011. The service information describes procedures for replacing the low-pressure oxygen hoses with non-conductive low-pressure oxygen hoses in the flight compartment.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in

the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 169 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	18 work-hours × $85 per hour = $1,530	$1,743	$3,273	$553,137

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),

(3) Will not affect intrastate aviation in Alaska, and

(4) 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.

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 airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2012–0104; Directorate Identifier 2011–NM–279–AD.

(a) Comments Due Date

We must receive comments by March 26, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin 777–35A0027, dated December 15, 2011.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 35; Oxygen.

(e) Unsafe Condition

This AD was prompted by a report indicating that a fire originated near the first officer's area, which caused extensive damage to the flight deck. We are issuing this AD to prevent electrical current from passing through the low-pressure oxygen hose internal anti-collapse spring, which can cause the low-pressure oxygen hose to melt or burn, and a consequent oxygen-fed fire in the flight compartment.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Replacement

Within 18 months after the effective date of this AD: Replace the low-pressure oxygen hoses with non-conductive low-pressure oxygen hoses in the flight compartment, in accordance with Boeing Alert Service Bulletin 777–35A0027, dated December 15, 2011.

(h) Parts Installation

As of the effective date of this AD, no person may install in the airplane flight compartment oxygen system on any airplane a low-pressure oxygen hose having part number 57034–81220, 57034–81320, or 57034–91100.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*]

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Susan Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6457; fax: (425) 917–6590; email: *susan.l.monroe@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone (206) 544–5000, extension 1; fax (206) 766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356. For information on the availability of this material at the FAA, call (425) 227–1221.

Issued in Renton, Washington, on January 25, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–2906 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0106; Directorate Identifier 2011–NM–150–AD]

RIN 2120–AA64

Airworthiness Directives; BAE SYSTEMS (OPERATIONS) LIMITED Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all BAE SYSTEMS (OPERATIONS) LIMITED Model BAe 146 and Avro 146–RJ airplanes. This proposed AD was prompted by reports of baggage bay fire bottles that can be misassembled such that two squib electrical connectors can be cross-connected. This proposed AD would require a general visual inspection of certain baggage bay fire bottles for correct connection and for the length of the wiring loom, modifying the wiring loom to certain squib connectors, and corrective actions if necessary. We are proposing this AD to detect and correct excessive wiring loom length and improper connection of the squib connecters, which in conjunction with a fire in one of the baggage bays, could result in the fire extinguishing agent being discharged into a wrong compartment and consequent damage to the airplane.

DATES: We must receive comments on this proposed AD by March 26, 2012.

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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact BAE SYSTEMS (OPERATIONS) LIMITED, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office 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 Operations 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

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–2012–0106; Directorate Identifier 2011–NM–150–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 based on 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 EASA Airworthiness Directive 2011–0065, dated April 7, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> The baggage bay fire bottles of certain BAe 146 and AVRO 146–RJ aeroplanes can be misassembled such that two squib electrical connectors can be cross-connected. This has been caused by an error in the baggage bay fire bottle Component Manufacturer Manual (CMM) and by excessive wiring loom length.
>
> This condition, if not corrected and in conjunction with a fire in one of the baggage bays, could result in the fire extinguishant to be discharged into a wrong compartment and consequent potential damage to the aircraft * * *.
>
> In addition to the CMM revision, to address this unsafe condition, BAE Systems developed modifications to reroute the baggage bay fire bottle wiring looms and prevent crossed electrical connections.
>
> For the reasons described above, this [EASA] AD requires the implementation of modifications HCM36250A and HCM36250B to affected aeroplanes.

Required actions include general visual inspections of certain baggage bay fire bottles for correct connection and for the length of the wiring loom, modifying the wiring loom to certain squib connectors, and corrective action if necessary. Corrective actions include reconnecting the squibs connectors and modifying the loom to proper length. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

BAE SYSTEMS (Operations) Limited has issued Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 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 This 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an 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

This proposed AD differs from the MCAI and/or service information as follows: The actions specified in paragraph (10) (test and close-up) of EASA AD 2011–0065, dated April 7, 2011, are not included in this AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 1 product of U.S. registry. We also estimate that it would take about 6 work-hours 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 $170 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $680 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $170, for a cost of $425 per product. We have no way of determining the number of products that may need these actions.

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 affect intrastate aviation in Alaska; and

4. 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:

BAE SYSTEMS (OPERATIONS) LIMITED: Docket No. FAA–2012–0106; Directorate Identifier 2011–NM–150–AD.

(a) Comments Due Date

We must receive comments by March 26, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to BAE SYSTEMS (OPERATIONS) LIMITED Model BAe 146–100A, –200A, and –300A airplanes, and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; all serial numbers, on which modifications HCM30480A, HCM30480B, HCM30480C, HCM30480D, HCM30480E, or HCM30480F are embodied.

(d) Subject

Air Transport Association (ATA) of America Code 26: Fire Protection.

(e) Reason

This AD was prompted by reports of baggage bay fire bottles that can be misassembled such that two squib electrical connectors can be cross-connected. We are issuing this AD to detect and correct excessive wiring loom length and improper connection of the squib connecters, which in conjunction with a fire in one of the baggage bays, could result in the fire extinguishing agent being discharged into a wrong compartment and consequent damage to the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Inspection/Modification

Within 3 months after the effective date of this AD, do the actions specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), (g)(5), and (g)(6) of this AD.

(1) Do a general visual inspection of baggage bay fire bottle WB8 having part number (P/N) 473997–1 for correct connection of the squib connectors identified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD, in accordance with paragraph 2.C.(3) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011. If any items are found improperly connected, before further flight, reconnect the squib connectors properly, in accordance with paragraph 2.C.(3) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(i) Squib connector WB8P1 (S1446–004A) and cartridge P/N 446307.

(ii) Squib connector WB8P2 (S1446–004D) and squib P/N 446290.

(2) Do a general visual inspection of the length of the wiring loom at the squib connector WB8P2 for excessive length that could cause the connector to become cross-connected with squib connector WB8P1, in accordance with paragraph 2.C.(4) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011. If excessive length is found, before further flight, modify the loom, in accordance with paragraph 2.C.(4) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(3) Do a general visual inspection of baggage bay fire bottle WB7 having P/N 473996–1 for correct connection of squib connectors identified in paragraphs (g)(3)(i) and (g)(3)(ii) of this AD, in accordance with paragraph 2.C.(5) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011. If any items are found improperly connected, before further flight, reconnect the squib connectors

properly, in accordance with paragraph 2.C.(5) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(i) Squib connector WB7P1 (S1446–004A) and cartridge P/N 446307.

(ii) Squib connector WB7P2 (S1446–004D) and squib P/N 446290.

(4) Modify the wiring loom to squib connector WB7P2, in accordance with paragraphs 2.C.(6)(a) and 2.C.(6)(c) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(5) Modify the wiring loom to squib connector WB7P1, in accordance with paragraph 2.C.(6)(b) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(6) Install modification HCM36250B, in accordance with paragraph 2.C.(7) of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

Note 1 to paragraph (g): Guidance for test and close-up procedures can be found in paragraphs 2.D. and 2.E. of the Accomplishment Instructions of BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(h) Credit for Actions Accomplished in Accordance With Previous Service Information

Installing modification HCM36250A in accordance with the service information specified in paragraphs (h)(1), (h)(2), (h)(3), or (h)(4) of this AD before the effective date of this AD is acceptable for compliance with the actions specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), and (g)(5) of this AD.

(1) BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A, dated September 4, 2009.

(2) BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A, Revision 1, dated September 11, 2009.

(3) BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 2, dated October 14, 2010.

(4) BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 3, dated November 23, 2010.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to Attn: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(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.

(j) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0065, dated April 7, 2011; and BAE SYSTEMS (OPERATIONS) LIMITED Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011; for related information.

Issued in Renton, Washington, on January 26, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–2908 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0105; Directorate Identifier 2011–NM–123–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777 airplanes. This proposed AD was prompted by reports of fractured and missing latch pin retention bolts that secure the latch pins on the forward cargo door. This proposed AD would require repetitive detailed inspections for fractured or missing latch pin retention bolts, replacement of existing titanium bolts with new Inconel bolts, and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct fractured and missing latch pin retention bolts, which could result in potential separation of the cargo door from the airplane and catastrophic decompression of the airplane.

DATES: We must receive comments on this proposed AD by March 26, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone (206) 544–5000, extension 1; fax (206) 766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227–1221.

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 (phone: (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ana Martinez Hueto, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6592; fax: (425) 917–6590; email: *ana.m.hueto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–0105; Directorate Identifier 2011–NM–123–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

We have received reports of fractured and missing latch pin retention bolts that secure the latch pins on the forward cargo door. Two adjacent latch pins that migrate from their position, or are broken in close proximity, are not able to hold the door closed for the design loads. Fractured and missing latch pin retention bolts, if not detected and corrected, could result in potential separation of the cargo door from the airplane and catastrophic decompression of the airplane.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010. This service information describes procedures for repetitive detailed inspections for fractured or missing latch pin retention bolts, and related investigative and corrective actions if necessary.

Related investigative actions include measuring the migration distance of the latch pins; a detailed inspection for any crack or surface depression of the latch pin retention bolt hole; a detailed inspection for any crack or damage of the lower sill of the forward large cargo door, fuselage frames, internal and external skin of the fuselage, cargo door frames, mid-span latch cam (if installed), and main cam latch mechanisms; and a detailed inspection for any cut, crack, or damage of the main cam latch of the cargo door.

Corrective actions include contacting Boeing for repair instructions; repairing; changing the installed bolt head direction; applying the specified torque to the retention bolts to check for loose bolts; replacing existing latch pin retention bolts made of titanium with new Inconel bolts; replacing the latch pin fitting assembly; repairing the lower sill of the forward large cargo door, fuselage frames, internal and external skin of the fuselage, cargo door frames, mid-span latch cam, and main cam latch mechanisms; and replacing the cargo door main cam latch, if necessary.

Replacing latch pin retention bolts made of titanium with new Inconel bolts, if accomplished, would eliminate the need for repetitive inspections for that area only.

For the detailed inspections for fractured or missing latch pin retention bolts, the service information specifies an initial compliance time of within 12 months after the Revision 1 issue date, and a repetitive interval of 1,000 flight cycles.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Differences Between the Proposed AD and the Service Information

Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 148 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	$0	$85	$12,580

We estimate the following costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Cross-bolt replacement	2 work-hours × $85 per hour = $170	$50	$220

We estimate the following costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these repairs:

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),

(3) Will not affect intrastate aviation in Alaska, and

(4) 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.

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 airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2012–0105; Directorate Identifier 2011–NM–123–AD.

(a) Comments Due Date

We must receive comments by March 26, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by reports of fractured and missing latch pin retention bolts that secure the latch pins on the forward cargo door. We are issuing this AD to detect and correct fractured and missing latch pin retention bolts, which could result in potential separation of the cargo door from the airplane and catastrophic decompression of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspect Retention Bolt of Latch Pin Fittings No. 1 Through No. 8

At the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010, except as specified in paragraph (i) of this AD: Do a detailed inspection for fractured and/or missing latch pin retention bolts of the latch pin fittings of the lower sill of the forward large cargo door, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010, except as provided by paragraph (h) of this AD. Do all applicable related investigative and corrective actions at the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010. Repeat the inspection thereafter at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010, except as specified in paragraph (j) of this AD.

(h) Repair

If any cut, crack, or damage is found during any inspection required by this AD, and Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010, specifies to contact Boeing for appropriate action: Before further flight, repair the cut, crack, or damage in accordance with a method approved by the Manager, Seattle, Aircraft Certification Office (ACO), FAA. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(i) Exception to Compliance Time

Where Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010, specifies a compliance time after the date on that service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) Optional Terminating Action for Repetitive Inspections

Replacing latch pin retention bolts made of titanium with new Inconel bolts, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–52A0038, Revision 1, dated June 24, 2010, terminates the repetitive inspections required by paragraph (g) of this AD at Stations 509.10, 522.75, 537.50, 554.30, 562.90, 579.70, 591.25, and 604.90, latch pin fittings No. 1 through No. 8.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

(1) For more information about this AD, contact Ana Martinez Hueto, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6592; fax: (425) 917–6590; email: *ana.m.hueto@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone (206) 544–5000, extension 1; fax (206) 766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227–1221.

Issued in Renton, Washington on January 27, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–2911 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1089; Directorate Identifier 2011–NM–110–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. That NPRM proposed an inspection to determine if a certain oxygen cylinder and regulator assembly (CRA) is installed and the replacement of affected oxygen CRAs. That NPRM was prompted by reports of deformation found at the neck of the pressure regulator body on the oxygen CRA. This action revises that NPRM by revising the compliance times. We are proposing this supplemental NPRM to prevent elongation of the pressure regulator neck, which could result in rupture of the oxygen cylinder, and in the case of cabin depressurization, oxygen not being available when required. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this proposed AD by March 26, 2012.

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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone (514) 855–5000; fax (514) 855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office 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 Operations 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: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

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–2011–1089; Directorate Identifier 2011–NM–110–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 based on 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

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on October 19, 2011 (76 FR 64857). That earlier NPRM proposed to require actions intended to address the unsafe condition for Model BD–100–1A10 (Challenger 300) airplanes.

Since that NPRM (76 FR 64857, October 19, 2011) was issued, we have determined that a revision to the compliance time is needed. We are changing the compliance time in paragraph (g) of this supplemental NPRM to "within 750 flight hours, or 6 months after the effective date of this AD, whichever occurs first." We have determined that this compliance time is adequate to address the unsafe condition.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (76 FR 64857, October 19, 2011), or on the determination of the cost to the public.

Additional Change

We have made minor editorial changes to this supplemental NPRM. We have determined that these minor editorial changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 64857, October 19, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 64857, October 19, 2011).

FAA's Determination and Requirements of This 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Certain changes described above expand the scope of the earlier NPRM (76 FR 64857, October 19, 2011). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for

the public to comment on this proposed AD.

Differences Between This AD and the MCAI or Service Information

This AD differs from the MCAI and/or service information as follows:

The MCAI applicability specifies only airplanes having certain serial numbers and prohibits installation of the affected part on those airplanes. Because the affected part could be rotated onto any of the Model BD–100–1A10 (Challenger 300) airplanes, this AD applies to serial numbers 20003 and subsequent. This difference has been coordinated with Transport Canada Civil Aviation (TCCA).

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 79 products of U.S. registry. We also estimate that it would take about 3 work-hours 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 $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $20,145, or $255 per product.

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);

3. Will not affect intrastate aviation in Alaska; and

4. 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:

Bombardier, Inc.: Docket No. FAA–2011–1089; Directorate Identifier 2011–NM–110–AD.

(a) Comments Due Date

We must receive comments by March 26, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes, certificated in any category, serial numbers 20003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 35: Oxygen.

(e) Reason

This AD was prompted by reports of deformation found at the neck of the pressure regulator body on the oxygen cylinder and regulator assembly (CRA). We are issuing this AD to prevent elongation of the pressure regulator neck, which could result in rupture of the oxygen cylinder, and in the case of cabin depressurization, oxygen not being available when required.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Actions

For airplanes having serial numbers 20003 through 20291 inclusive: Within 750 flight hours, or within 6 months after the effective date of this AD, whichever occurs first, inspect oxygen pressure regulators having P/N 806370–06 or 806370–14, to determine the serial number, in accordance with paragraph 2.B.(2) of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011.

(1) If the serial number of the oxygen pressure regulator is listed in Table 2 of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011, replace the affected oxygen CRA, in accordance with paragraph 2.C. of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011.

(2) If the serial number of the oxygen pressure regulator is not listed in Table 2 of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011, no further action is required by this paragraph.

(h) Parts Installation

For all airplanes: As of the effective date of this AD, no person may install an oxygen pressure regulator (P/N 806370–06 or 806370–14) having any serial number listed in Table 2 of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011, on any airplane, unless a suffix "–A" is beside the serial number.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to Attn: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7300; fax (516) 794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(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.

(j) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–09, dated May 13, 2011; and Bombardier Service Bulletin 100–35–05, Revision 02; dated January 31, 2011; for related information.

Issued in Renton, Washington, on January 26, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–2912 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 162

[Docket No. USCBP–2011–0022]

RIN 1651–AA94

Internet Publication of Administrative Seizure and Forfeiture Notices

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend the U.S. Customs and Border Protection (CBP) regulations to allow for publication of notices of seizure and intent to forfeit on an official Government forfeiture Web site. CBP anticipates that the changes proposed in this rule would reduce administrative costs and improve the effectiveness of CBP's notice procedures as Internet publication would reach a broader range of the public and provide access to more parties who may have an interest in the seized property.

DATES: Written comments must be received on or before April 9, 2012.

ADDRESSES: You may submit comments, identified by Docket Number USCBP–2011–0022, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2011–0022.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW. (Mint Annex), Washington, DC 20229–1179.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Dennis McKenzie, Director, Fines, Penalties and Forfeitures Division, Office of Field Operations, U.S. Customs and Border Protection, (202) 344–1808.

SUPPLEMENTARY INFORMATION:

Background

General

U.S. Customs and Border Protection (CBP) has authority to seize property violating certain laws enforced or administered by CBP or U.S. Immigration and Customs Enforcement (ICE). Such seized property may be forfeited and disposed of in a manner specified by applicable provisions of law. Generally, these forfeiture statutes authorize the government to take possession of and legally acquire title to the seized property. Under the CBP forfeiture procedure, a party may assert a claim to the seized property through judicial or administrative proceedings.

Applicable Law and Regulations

Section 607 of the Tariff Act of 1930, as amended, authorizes CBP to implement administrative forfeiture procedures under prescribed circumstances. 19 U.S.C. 1607. The statute requires CBP to publish notice of seizure and intent to forfeit for at least three successive weeks, in such manner as the Secretary of the Treasury directs.[1] CBP is also required to issue written notice of the seizure and forfeiture to each party who appears to have an interest in the seized property. The written notice must contain information on the applicable procedures.

CBP regulations set forth the current procedure that CBP must follow when it seizes and gives notice of intent to forfeit property under administrative forfeiture proceedings, as required under 19 U.S.C. 1607. 19 CFR 162.45. These procedures apply when CBP seizes: (1) A prohibited importation; (2) a transporting conveyance if used to import, export, transport or store a controlled substance or listed chemical; (3) any monetary instrument within the meaning of 31 U.S.C. 5312(a)(3); or (4) any conveyance, merchandise, or baggage, the value of which does not exceed $500,000 (19 CFR 162.45(a)).

CBP regulations provide two different methods to notify the public of seized property based on the appraised value of the property. First, for seized property appraised at more than $5,000, CBP must publish administrative seizure and forfeiture notices for at least three successive weeks in a newspaper circulated at the customs port and in the judicial district where CBP seized the property. 19 CFR 162.45(b)(1). CBP also notifies all known parties-in-interest in advance of the pending newspaper publication and the expected dates of publication of the notice. For seized property appraised at $5,000 or less, CBP accomplishes publication by posting a notice in a conspicuous place accessible to the public at the customhouse nearest the place of seizure. 19 CFR 162.45(b)(2). The notice shows the date of posting and remains posted for at least three successive weeks.

Proposed Amendments

This notice of proposed rulemaking (NPRM) proposes to revise the manner by which CBP provides notice of intent to forfeit seized property appraised at more than $5,000 and seized property appraised at $5,000 or less. First, this rule proposes that CBP (including the U.S. Border Patrol where appropriate) would utilize the Department of Justice (DOJ) forfeiture Web site, located at *http://www.forfeiture.gov*, to post seizure and forfeiture notices for property appraised in excess of $5,000 in value for 30 consecutive days. This DOJ Web site currently contains a comprehensive list of pending notices of

[1] The Secretary of the Treasury has delegated this authority to the Secretary of Homeland Security pursuant to Treasury Department Order 100–16.

civil and criminal forfeiture actions in various district courts and Federal Government agencies. Under this NPRM, CBP would no longer need to publish administrative seizure and forfeiture notices for three successive weeks in a newspaper circulated at the customs port and in the judicial district where CBP seized the property. CBP would notify all known parties-in-interest of the Web site posting and the expected date of publication.

This NPRM also proposes that CBP will publish seizure and forfeiture notices for seized property appraised at $5,000 or less on the DOJ forfeiture Web site for 30 consecutive days. This additional notice would not replace the current procedure of CBP posting notice at the customhouse nearest the place of seizure. However, this rule proposes to specify that in situations where U.S. Border Patrol agents make the seizure, the posting will be at the appropriate U.S. Border Patrol sector office.

CBP believes that the use of Internet publication for CBP seizure and forfeiture notices would provide notice to a broader range of the public without the geographical limitations that exist under the current procedure's reliance solely on local print publications or customhouse postings. In addition, the Internet posting would be available for a longer period of time (30 days), compared to the minimum statutory requirement of three weeks.

This NPRM proposes that CBP may publish, at its sole discretion and as circumstances warrant, additional notice in a print medium for at least three successive weeks. For example, CBP may publish a notice of seizure and forfeiture in a newspaper in general circulation at the port and the judicial district nearest the seizure, or with wider or national circulation, when recommended by the pertinent U.S. Attorney's office or court of jurisdiction. Additionally, CBP may decide to publish notice of seizure and forfeiture in a non-English language or other community newspaper to ensure reaching a particular community that may have a particular interest in or connection to the seizure. Similarly, CBP may elect to publish notice of seizure and forfeiture in a trade or industry publication that serves a particular commercial community to ensure reaching a party when it is difficult to identify a vessel or other conveyance owner.

Economic Analysis

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget. However, CBP has prepared the following analysis to help inform stakeholders of the potential impacts of this proposed rule.

This proposed rule would provide a less costly alternative for publishing notices of seizure and forfeiture for seized property appraised at more than $5,000 in value. The current regulation requires CBP to publish such notices in a local newspaper for at least three successive weeks. Historically, there have been some instances where the cost of advertising exceeds the value of the seized property, and these occurrences have increased as the cost of newspaper advertising has increased.

Under this proposed rule, CBP would publish the great majority of seizure and forfeiture notices for property valued at more than $5,000 (estimated at 90 percent) for 30 consecutive days solely by posting on an existing government Web site. In some cases, either at CBP's sole discretion based on the particular circumstances involved or where a court or a U.S. Attorney instructs or recommends, CBP would publish notice via both print (newspaper or other publication) and Internet methods. CBP will use an existing DOJ Web site that lists government forfeiture actions by various agencies. In 2010, CBP spent over $1 million advertising more than 6,000 lines of property. Under this rule, CBP would advertise the vast majority of items using the DOJ Web site, which would be virtually cost-free. CBP would advertise only a small number of items both on the Internet and in a traditional newspaper or other publication. Because these items will be the highest profile items, CBP will likely advertise these items in large circulations or national newspapers. Such advertising will make up a disproportionate amount of the costs. We estimate that it will cost $300,000 to continue to advertise these items in print. Therefore, we estimate that advertising on the Internet instead of in print for most items will save the government approximately $700,000 per year.

This NPRM also proposes that CBP will publish seizure and forfeiture notices for seized property appraised at $5,000 or less on the DOJ forfeiture Web site for 30 consecutive days. This proposed change would simply add low-cost Internet publication to the current requirement that CBP post notice at the customhouse (or U.S. Border Patrol sector office, as proposed in this rule) for seized property appraised at $5,000 or less. This change would be virtually costless to the government and would expand the reach of the seizure and forfeiture notice to the benefit of unknown parties-in-interest and the public.

Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule would move most notices of seizure and forfeiture valued at more than $5,000 from local print media to a national Web site. It would also allow CBP to post notices of seizures and forfeitures valued at $5,000 or less on the Web in addition to posting at the customhouse nearest the place of seizure or the appropriate sector office of the U.S. Border Patrol. This rule would not impose any requirements on the general public or small businesses. As provided under the current procedure, CBP would continue to contact any small business that is a known party-in-interest. Because this rule imposes no direct costs on small entities, we believe that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, DHS certifies this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This notice of proposed rulemaking will not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It will not result in costs of $100 million or more, in the

aggregate, to any of the following: State, local, or Native American Tribal governments, or the private sector.

Executive Order 13132

In accordance with the principles and criteria contained in Executive Order 13132 (Federalism), this notice of proposed rulemaking will have no substantial effect on the States, the current Federal-State relationship, or on the current distribution of power and responsibilities among local officials.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(b)(1).

List of Subjects in 19 CFR Part 162

Administrative practice and procedure, Law enforcement, Seizures and forfeitures.

Proposed Amendment to CBP Regulations

For the reasons set forth above, Part 162 of title 19 of the Code of Federal Regulations (19 CFR part 162), is proposed to be amended as set forth below:

PART 162—INSPECTION, SEARCH, AND SEIZURE

1. The general authority citation for part 162 and the specific authority citation for § 162.45 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624; 6 U.S.C. 101; 8 U.S.C. 1324(b).

* * * * *

Section 162.45 also issued under 19 U.S.C. 1607, 1608;

* * * * *

2. In § 162.45, paragraphs (b)(1) and (2) are revised to read as follows:

§ 162.45 Summary forfeiture; Property other than Schedule I and Schedule II controlled substances; Notice of seizure and sale.

* * * * *

(b) *Publication.* (1) If the appraised value of any property in one seizure from one person, other than Schedule I and Schedule II controlled substances (as defined in 21 U.S.C. 802(6) and 812), exceeds $5,000, the notice will be published by its posting on an official Government forfeiture Web site for at least 30 consecutive days. In CBP's sole discretion, and as circumstances warrant, additional publication for at least three successive weeks in a print medium may be provided. All known parties-in-interest will be notified of the pending location and date of publication.

(2) In all other cases, except for Schedule I and Schedule II controlled substances (see § 162.45a), the notice will be published by its posting on an official Government forfeiture Web site for at least 30 consecutive days and by its posting for at least three successive weeks in a conspicuous place that is accessible to the public at the customhouse located nearest the place of seizure or the appropriate sector office of the U.S. Border Patrol. All known parties-in-interest will be notified of the pending location and date of publication. The posting at the customhouse or sector office will contain the date of posting. Articles of small value of the same class or kind included in two or more seizures will be advertised as one unit.

* * * * *

Dated: February 2, 2012.

Janet Napolitano,

Secretary.

[FR Doc. 2012–2842 Filed 2–7–12; 8:45 am]

BILLING CODE 9111–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0084–201167(b); FRL–9628–3]

Approval and Promulgation of Implementation Plans; Alabama, Georgia, and Tennessee: Chattanooga; Particulate Matter 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory portion of the State Implementation Plan (SIP) revision submitted by the States of Alabama on July 31, 2009, Georgia on October 27, 2009, and Tennessee on October 15, 2009. The emissions inventory is part of the Chattanooga, Alabama-Georgia-Tennessee, $PM_{2.5}$ attainment demonstrations that were submitted for the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standards. This action is being taken pursuant to section 110 of the Clean Air Act. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments.

DATES: Written comments must be received on or before March 9, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0084 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: benjamin.lynorae@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* "EPA–R04–OAR–2011–0084," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: January 27, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–2730 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 77, No. 26
Wednesday, February 8, 2012

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 AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–11–0089]

Notice of Funds Availability (NOFA) Inviting Applications for the Specialty Crop Block Grant Program–Farm Bill (SCBGP–FB)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces the availability of approximately $55 million in grant funds, less USDA administrative costs, for fiscal year (FY) 2012, to solely enhance the competitiveness of specialty crops. SCBGP–FB funds are authorized by the Food, Conservation, and Energy Act of 2008 (the Farm Bill). State departments of agriculture are encouraged to develop their grant applications promptly. State departments of agriculture interested in obtaining grant program funds are invited to submit applications to USDA. State departments of agriculture, meaning agencies, commissions, or departments of a State government responsible for agriculture within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are eligible to apply.

DATES: Applications must be received between February 8, 2012 and not later than July 11, 2012.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Phone: (202) 690–4942, email: *trista.etzig@ams.usda.gov* or your State department of agriculture listed on the SCBGP and SCBGP–FB Web site at *www.ams.usda.gov/scbgp.*

SUPPLEMENTARY INFORMATION: SCBGP–FB is authorized under Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note) and amended under Section 10109 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 (the Farm Bill). SCBGP–FB is currently implemented under 7 CFR Part 1291 (published March 27, 2009; 74 FR 13313).

The SCBGP–FB assists State departments of agriculture in solely enhancing the competitiveness of U.S. specialty crops. Specialty crops are defined as fruits and vegetables, dried fruit, tree nuts, horticulture, nursery crops (including floriculture).

AMS encourages states to develop projects solely to enhance the competitiveness of specialty crops pertaining to the following issues affecting the specialty crop industry: increasing child and adult nutrition knowledge and consumption of specialty crops; improving efficiency and reducing costs of distribution systems; assisting all entities in the specialty crop distribution chain in developing "Good Agricultural Practices," "Good Handling Practices," "Good Manufacturing Practices," and in cost-share arrangements for funding audits of such systems for small farmers, packers and processors; investing in specialty crop research, including research to focus on conservation and environmental outcomes; enhancing food safety; developing new and improved seed varieties and specialty crops; pest and disease control; and development of organic and sustainable production practices.

States may wish to consider submitting grants that increase the competitiveness of specialty crop farmers, including Native American and disadvantaged farmers. Increasing competitiveness may include developing local and regional food systems, and improving food access in underserved communities.

Projects that support biobased products and bioenergy and energy programs, including biofuels and other alternative uses for agricultural and forestry commodities (development of biobased products) should see the USDA energy Web site at: *http://www.energymatrix.usda.gov/* for information on how to submit those projects for consideration to the energy programs supported by USDA. Also, agricultural cooperatives, producer networks, producer associations, local governments, nonprofit corporations, public health corporations, economic development corporations, regional farmers' market authorities and Tribal governments that are interested in submitting projects that support farmers' markets that do not solely enhance the competitiveness of eligible specialty crops should visit the Farmers' Market Promotion Program (FMPP) Web site at: *www.ams.usda.gov/fmpp* for information on how to submit those projects for consideration to FMPP.

Each interested State department of agriculture must submit an application for SCBGP–FB grant funds anytime between February 8, 2012 and on or before July 11, 2012, through *www.grants.gov.* AMS will work with each State department of agriculture and provide assistance as necessary.

Other organizations interested in participating in this program should contact their local State department of agriculture. State departments of agriculture specifically named under the authorizing legislation should assume the lead role in SCBGP–FB projects, and use cooperative or contractual linkages with other agencies, universities, institutions, and producer, industry or community-based organizations as appropriate.

Additional details about the SCBGP–FB application process for all applicants are available at the SCBGP–FB Web site: *http://www.ams.usda.gov/fv/.*

To be eligible for a grant, each State department of agriculture's application shall be clear and succinct and include the following documentation satisfactory to AMS:

(A) One SF–424 "Application for Federal Assistance." The grant period must start on or before September 30, 2012 and end no later than September 29, 2015.

(B) SF–424A "Budget Information—Non-Construction Programs" showing the budget for each project.

(C) One SF–424B "Assurances—Non-Construction Program."

(D) Completed applications must also include one State plan to show how grant funds will be utilized to solely enhance the competitiveness of specialty crops. The State plan shall include the following:

(1) Cover page and granting processes. Include the point of contact and lead agency for administering the plan. Include the steps taken to conduct

outreach to specialty crop stakeholders to receive and consider public comment to identify state funding priorities needs, including any focus on multi-state projects in enhancing the competitiveness of specialty crops. Provide the identified funding priority areas. Describe the methods used to identify socially disadvantaged and beginning farmers and reach out to these groups about the SCBGP–FB. Identify by project title if an award was made to either a socially disadvantaged farmer or a beginning farmer. If steps were not taken to conduct outreach to socially disadvantaged and beginning farmers, provide a justification for why not. Provide a description of the affirmative steps taken to conduct a competitive grant process. Describe the methods used to solicit proposals that met identified specialty crop funding priority needs. Include the number of grant proposals that were received. Describe how members on the review panel were selected to ensure they were free from conflicts of interest and consisted of a community of experts in various fields, who were qualified and able to perform impartial reviews. Identify what fields the review panel members were from. State if the review results of the peer review panel were given to the grant applicants ensuring the confidentiality of the review panel members. If a competitive grant process was not used, provide a justification why not.

(2) State Department of Agriculture Oversight. Describe how and when the State department of agriculture will oversee subgrantee activities to ensure proper and efficient administration of grant funds. Include timelines for oversight activities. If grant funds will be used for direct administration of the grant agreement, include a budget breakdown to include percent of full-time equivalents (FTE), percent fringe benefits, supplies, etc. Also, include the administrative "project" on the SF–424A "Budget Information—Non-Construction Programs" including indirect costs.

(3) Project title, partner organization name, abstract. Include the title of the project, the name of the organization that will partner with the State department of agriculture to lead and execute the project, and an abstract of 200 or fewer words for each project.

(4) Project purpose. For each project, clearly state the purpose of the project. Describe the specific issue, problem, interest, or need to be addressed. Explain why the project is important and timely and identify the objectives of the project. If the project has the potential to enhance the competiveness of non-specialty crops, describe the methods or processes the applicant will use to ensure all grant funds will solely enhance the competitiveness of eligible specialty crops as defined in 7 CFR 1291.2(n). If a project builds on a previous SCBGP or SCBGP–FB project, indicate how the projects differ from one another. For each project, indicate if the project will be or has been submitted to or funded by another Federal or State grant program. If the project was submitted to or funded by another Federal or State grant program, describe how the project differs from and supplements efforts of the SCBGP–FB and the other Federal or State grant program and does not duplicate funding efforts. The SCBGP–FB will not fund duplicative projects.

(5) Potential impact. This section shall show how the project potentially impacts the specialty crop industry and/or the public rather than a single organization, institution, or individual. Identify who the specialty crop beneficiaries of the project are, the number of specialty crop beneficiaries impacted, how the specialty crop beneficiaries are impacted by the project, and/or the potential economic impact if such data are available and relevant to the project.

(6) Expected Measurable Outcomes. For each project, describe at least one distinct, quantifiable, and measurable outcome-oriented objective that directly and meaningfully supports the project's purpose. The measurable outcome-oriented objective must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public. The measurable outcomes, when possible, should include a goal, performance measure, benchmark, and target. Outcome measures may be long term and may exceed the grant period. For each project, describe how performance toward meeting outcomes will be monitored by identifying the data sources that will be used to monitor performance and how the data will be collected.

(7) Work Plan. For each project, explain briefly the activities that will be performed to accomplish the objectives of the project. Be clear about who will do the work and when each activity will be accomplished to include beginning and end dates for each project. Include the performance monitoring/data collection plan and how outcomes will be measured or completed inside the grant period.

(8) Budget Narrative. Provide in sufficient detail information about the budget categories listed on SF–424A for each project to demonstrate that grant funds are being expended on eligible grant activities that meet the purpose of the program and that costs are reasonable and allowable.

(a) Personnel—For each project participant, indicate their title, percent FTE, and corresponding salary for the FTE. Show the total for all SCBGP–FB funded personnel.

(b) Fringe benefits—Provide the rate of fringe benefits for each project participant's salary described in the personnel section. Show the total for all SCBGP–FB funded fringe benefits.

(c) Travel—Provide the following information in the narrative if applicable: Ddestination; purpose of trip; number of trips; number of people traveling; number of days traveling; estimated airfare costs; estimated ground transportation costs; estimated lodging and meals costs; and estimated mileage rate and costs for the travel. Show the total for all SCBGP–FB funded travel.

(d) Equipment—Provide an itemized list of equipment purchases or rentals, along with a brief narrative on the intended use of each equipment item, and the cost for all the equipment purchases or rentals. Show the total for all SCBGP–FB funded equipment.

(e) Supplies—Provide an itemized list and estimate the dollar amount for each item. Show the total for all SCBGP–FB funded supplies.

(f) Contractual—Provide a short description of the services each contract covers. Indicate if the cost is a flat rate fee or hourly rate. Indicate the flat rate fee or hourly rate to be applied. If hourly rates exceed the salary of a GS–14 step 10 Federal employee in your area (for more information please go to *www.opm.gov* and click on Salaries and Wages), please provide a justification. List general categories of items the contract covers such as professional services, travel, lodging, indirect costs, etc. Show the total for all SCBGP–FB funded contractual.

(g) Other—Provide a detailed description of all other direct costs such as mailings, postage, express mail, faxes, and telephone long distance charges; speaker/trainer fees to include the amount of the speaker's fees and a description of the services they are providing; publication costs to include the estimated cost of printing of brochures and other program materials or scientific or technical journals as well as an estimate of the number of pieces to be printed/published; data collection to include the estimated costs of collecting performance data to measure the project outcome measures; and the costs of holding a conference or meeting. If meals are budgeted for a

conference or meeting for reasons other than meals associated with travel per diem, provide an adequate justification for why these costs should not be considered entertainment costs. Show the total for all SCBGP–FB funded other.

(h) Indirect Costs—Indicate percent of indirect costs. Show the total for all SCBGP–FB funded indirect charges. Indirect costs for this grant period should not exceed 10 percent of any proposed budget. (i) Program Income—Indicate the nature or source of program income (i.e., registration fees).

(i) Estimate the amount of program income. Describe how the income will be used to further enhance the competitiveness of specialty crops.

(9) Project Partner Oversight. Describe who or what organization will oversee the project activities and how will oversight be performed to ensure proper and efficient administration for each project.

(10) Project Commitment. Describe briefly what specialty crop stakeholders outside the lead organization support this project and how all grant project stakeholders work toward the goals and outcomes of the project.

(11) Multi-state Projects. If the project is a multi-state project, identify the other states that are participating, describe how the states are going to collaborate effectively with related projects with one state assuming the coordinating role. Indicate the percent of the budget covered by each state.

Each State department of agriculture that submits an application that is reviewed and approved by AMS is to receive a base grant of 181,109.88 to solely enhance the competitiveness of specialty crops. In addition, AMS will allocate the remainder of the grant funds based on the proportion of the value of specialty crop production in the state in relation to the national value of specialty crop production using the latest available (2010 National Agricultural Statistics Service (NASS) cash receipt data for the 50 States and the Commonwealth of Puerto Rico, 2007 Census of Agriculture cash receipts for Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and 2002 Census of Agriculture cash receipts for American Samoa) specialty crop production data in all states whose applications are accepted.

The amount of the base grant plus value of production available to each State department of agriculture shall be:

(1) Alabama	$400,934.95
(2) Alaska	194,889.46
(3) American Samoa	215,529.21
(4) Arizona	1,263,013.24
(5) Arkansas	255,175.60
(6) California	18,671,947.22
(7) Colorado	680,621.81
(8) Connecticut	403,982.43
(9) Delaware	244,484.20
(10) District of Columbia	181,109.88
(11) Florida	4,475,725.74
(12) Georgia	1,130,698.80
(13) Guam	182,946.05
(14) Hawaii	378,686.07
(15) Idaho	928,736.45
(16) Illinois	632,932.59
(17) Indiana	398,023.16
(18) Iowa	271,120.00
(19) Kansas	258,362.52
(20) Kentucky	260,991.65
(21) Louisiana	350,782.43
(22) Maine	402,360.32
(23) Maryland	393,434.24
(24) Massachusetts	438,930.75
(25) Michigan	1,337,219.16
(26) Minnesota	703,253.61
(27) Mississippi	281,843.82
(28) Missouri	350,592.48
(29) Montana	328,477.01
(30) Nebraska	331,838.05
(31) Nevada	259,473.57
(32) New Hampshire	238,459.35
(33) New Jersey	814,882.47
(34) New Mexico	514,648.73
(35) New York	1,114,085.81
(36) North Carolina	1,151,269.80
(37) North Dakota	614,984.68
(38) Northern Mariana Islands	182,504.34
(39) Ohio	642,019.98
(40) Oklahoma	384,159.91
(41) Oregon	1,487,908.90
(42) Pennsylvania	1,027,509.84
(43) Puerto Rico	381,396.61
(44) Rhode Island	217,256.69
(45) South Carolina	552,450.81
(46) South Dakota	207,600.20
(47) Tennessee	527,123.55
(48) Texas	1,850,776.76
(49) U.S. Virgin Islands	182,263.14
(50) Utah	289,055.09
(51) Vermont	223,751.88
(52) Virginia	495,018.42
(53) Washington	3,320,842.83
(54) West Virginia	217,160.21
(55) Wisconsin	882,214.81
(56) Wyoming	205,501.72

Funds not obligated will be allocated pro rata to the remaining States which applied during the specified grant application period to be solely expended on projects previously approved in their State plan. AMS will notify the States as to the procedures for applying for the reallocated funds.

AMS requires applicants to submit SCBGP–FB applications electronically through the central Federal grants web site, *www.grants.gov* instead of mailing hard copy documents. Original signatures are not needed on the SF–424 and SF–424B when applying through *www.grants.gov* and applicants are not required to submit any paper documents to AMS. Applicants are strongly urged to familiarize themselves with the Federal grants web site and begin the application process well before the application deadline. For information on how to apply electronically, please consult *http://www.grants.gov/applicants/get_registered.jsp*. AMS will send an email confirmation when applications are received by the AMS office.

SCBGP–FB is listed in the "Catalog of Federal Domestic Assistance" under number 10.170 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all federally assisted programs.

Authority: 7 U.S.C. 1621 note.

Dated: January 31, 2012.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–2849 Filed 2–7–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Information Collection Request; Assignment and Joint Payment Elections

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) are seeking comments from all interested individuals and organizations on an extension and a revision of a currently approved information collection associated with Assignment and Joint Payment Elections. The information collection is in support of 7 CFR part 1404, which sets forth the manner in which a person may voluntarily assign a cash payment made by FSA or CCC to a third party. In addition, a payment recipient may voluntarily elect to have a cash payment made jointly to the payment recipient and a third party.

DATES: We will consider comments that we receive by April 9, 2012.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: Go to http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Yanira Sanabria, Financial Specialist, USDA, FSA, FMD, STOP 0581, 1400 Independence Ave. SW., Washington, DC 20250–0581.

• *Email: yanira.sanabria@wdc.usda.gov.*

• *Fax:* (202) 245–4785.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Yanira Sanabria at the above address.

FOR FURTHER INFORMATION CONTACT: Yanira Sanabria, Financial Specialist, Farm Service Agency (202) 772–6032. Persons with disabilities who require alternative mean for communication (Braille, large print, audio tape, etc.) should contact the USDA's TARGET Center at (202) 720–2600 (Voice and TDD).

SUPPLEMENTARY INFORMATION:

Title: CCC–36, "Assignment of Payment", CCC–37, "Joint Payment Authorization", CCC–251, "Notice of Assignment", and CCC–252, "Instrument of Assignment."

OMB Control Number: 0560–0183.

Expiration Date of Approval: July 31, 2012.

Type of Request: Revision and extension of a currently approved information collection.

Abstract: FSA and CCC are requesting an extension of the currently approved information collection for Forms CCC–36, "Assignment of Payment", CCC–37, "Joint Payment Authorization", CCC–251, "Notice of Assignment", and CCC–252, "Instrument of Assignment". The Soil Conservation and Domestic Allotment Act (16 USC 590h(g)) authorizes producers to assign FSA conservation program payments in accordance with regulations issued by the Secretary. The Assignment of Payments regulation at 7 CFR Part 1404 requires that any such assignment be signed by both the assignor and the assignee. The Agricultural Act of 1949, as amended, extends that authority to CCC programs, including rice, feed grains, cotton, and wheat. There are no regulations governing joint payments, but this service is offered as a result of public requests for this type of payment option.

The burden hours have increased due to more producers participating in new Disaster Programs in the past few years. They are Livestock Indemnity Program, Livestock Forage Disaster Assistance Program, Supplemental Revenue Assistance Payment (SURE), Tree Assistance Program, Emergency Assistance for Livestock Honeybee and Farm-Raised Fish Program.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response for each form of CCC–36, CCC–37, and CCC–251, and 5 minutes per response for CCC–252.

Respondents: Producers participating in FSA or CCC programs.

Estimated Number of Respondents: 170,430 for CCC–36; 40,496 for CCC–37, 450 for CCC–251 and 450 for CCC–252.

Estimated Annual Number of Forms per person: 1.

Estimated Total Annual Responses: 211,826.

Estimated Total Annual Burden Hours: 35,266.

We are requesting comments on all aspects of this information collection and to help us to:

(1) Determine whether the continued collection of information is still necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Assess the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(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.

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 submission for the Office of Management and Budget approval.

Signed on February 3, 2012.

Bruce Nelson,

Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2012–2861 Filed 2–7–12; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Malheur National Forest; Oregon; Summit Logan Grazing Authorization Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose environmental effects to authorize livestock grazing on all or portions of the Lake Creek, Logan Valley, McCoy Creek and Summit Prairie allotments. These allotments are within the Upper Malheur River and Upper North Fork Malheur River watersheds. The Summit Logan Grazing Authorization Project area is located south and west of Prairie City, Oregon and encompasses approximately 40,272 acres of National Forest System Lands administered by the Prairie City Ranger District, Malheur National Forest.

DATES: Comments concerning the scope of the analysis must be received by March 9, 2012. The draft environmental impact statement is expected June 2012 and the final environmental impact statement is expected September 2012.

ADDRESSES: Send written comments to the Randall Gould, District Ranger, Prairie City Ranger District, 327 SW Front Street, P.O. Box 337, Prairie City, OR 97869. Comments may also be sent via email to *comments-pacificnorthwest-malheur-prairiecity@fs.fed.us*, or via facsimile to (541) 820–4844.

FOR FURTHER INFORMATION CONTACT: Ryan Falk, Environmental Coordinator, Malheur National Forest, 327 Front Street, P.O. Box 337, Prairie City, Oregon 97869. Telephone: (541) 820–3890, email: *rfalk@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this project is to authorize livestock grazing on the Lake Creek, Logan Valley, McCoy Creek and Summit Prairie allotments, meeting the requirements of the Rescission Act, and to improve resource conditions for aquatic habitat.

Proposed Action

The proposed action allows grazing in the Lake Creek, Logan Valley, McCoy Creek and Summit Prairie Allotments while allowing recovery of vegetation and hardwoods in riparian areas.

Allotment boundaries and pastures would be adjusted to facilitate more efficient allotment management requiring new fence construction,

existing fence removal and water source developments. Portions of the currently vacant Lake Creek allotment would be added to the Logan Valley, Summit Prairie and Dollar Basin allotments. Areas within the Lake Creek allotment that contain occupied bull trout habitat would remain vacant. Existing AUMs in the Logan Valley, McCoy Creek, and Summit Prairie allotments would not change.

The proposed action includes adaptive management strategies to meet or move toward Forest Plan and site-specific desired conditions.

Possible Alternatives

Two additional alternatives have been identified to date: (1) Term grazing permits would be cancelled (No Grazing); and (2) implementation of management actions from the current management plan as adapted over recent years.

Responsible Official

Teresa Raaf, Malheur National Forest Supervisor.

Nature of Decision To Be Made

The Responsible Official will decide if and to what management parameters livestock grazing will continue in the project area.

Preliminary Issues

Preliminary issues identified include the potential effects of livestock on riparian vegetation, aquatic habitat, and water quality.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Previous scoping for this project occurred in October, 2008.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: January 31, 2012.

Randall J. Gould,

District Ranger.

[FR Doc. 2012–2825 Filed 2–7–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Agricultural Library

Notice of Intent To Seek Approval To Collect Information

AGENCY: National Agricultural Library, Agricultural Research Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320, this notice announces the National Agricultural Library's intent to request an extension of the currently approved information collection form related to the Animal Welfare Information Center's (AWIC) workshop, *Meeting the Information Requirements of the Animal Welfare Act*. This workshop registration form requests the following information from participants: Contact information, affiliation, and database searching experience. Participants include principal investigators, members of Institutional Animal Care and Use committees, animal care technicians, facility managers, veterinarians, and administrators of animal use programs.

DATES: Comments on this notice much be received by April 13, 2012 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Sandra Ball, Information Technology Specialist, USDA, ARS, NAL Animal Welfare Information Center, 10301 Baltimore Avenue, Room #404–C, Beltsville, MD 20705–2351. Submit electronic comments to: *sandra.ball@ars.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Sandra Ball, Information Technology Specialist. Phone: (301) 504–6212 or Fax: (301) 504–7125.

SUPPLEMENTARY INFORMATION:

Title: Workshop Registration, Meeting the Information Requirements of the Animal Welfare Act.

OMB Number: 0518–0033.

Expiration Date: 07/31/2012.

Type of Request: To extend currently approved data collection form.

Abstract: This Web-based form collects information to register respondents in the workshop, *Meeting the Information Requirements of the Animal Welfare Act*. Information collected includes the following: Preference of workshop date, signature, name, title, organization name, mailing address, phone and fax numbers, and email address. Six questions are asked regarding: database searching experience, membership on an Institutional Animal Care and Use Committee, and goals for attending the workshop.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Principal investigators, members of Institutional Animal Care and Use Committees, animal care personnel, veterinarians, information providers, and administrators of animal use programs.

Estimated Number of Respondents: 19 per year.

Estimated Total Annual Burden on Respondents: 1.6 hours.

Comments are invited on (a) 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; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the 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 respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: February 2, 2012.

Edward Knipling,

Administrator, Agricultural Research Service.

[FR Doc. 2012–2816 Filed 2–7–12; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of the Advisory Committee on Agriculture Statistics; Meeting

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Agricultural Statistics Service (NASS) announces a meeting of the Advisory Committee on Agriculture Statistics.

DATES: The Committee meeting will be held from 9 a.m. to 5:45 p.m. on Thursday, March 29, 2012, and from 7 a.m. to 3:45 p.m. on Friday, March 30, 2012. There will be an opportunity for

public questions and comments at 1 p.m. on March 30, 2012.

ADDRESSES: The Committee meeting will take place at the L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW., Washington, DC 20024. Written comments may be filed before or within a reasonable time after the meeting with the contact person identified herein at: U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW., Room 5029, South Building, Washington, DC 20250–2000.

FOR FURTHER INFORMATION CONTACT: Hubert Hamer, Executive Director, Advisory Committee on Agriculture Statistics, Telephone: (202) 690–8141, Fax: (202) 690–1311, or email: *hubert.hamer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Committee on Agriculture Statistics, which consists of 20 members appointed from 7 categories covering a broad range of agricultural disciplines and interests, has scheduled a meeting on March 29–30, 2012. During this time the Advisory Committee will discuss topics including the launch of the NASS National Operations Center, Annual NASS Program Priorities, Computer Assisted Personal Interview Technology Applications, Census of Agriculture Updates, Census Follow-on Survey Plans, and Cultural Transformation Initiatives.

The Committee meeting is open to the public. The public may file written comments to the USDA Advisory Committee contact person before or within a reasonable time after the meeting. All statements will become a part of the official records of the USDA Advisory Committee on Agriculture Statistics and will be kept on file for public review in the office of the Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, Washington, DC 20250.

Signed at Washington, DC, on February 2, 2012.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. 2012–2817 Filed 2–7–12; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1807]

Approval for Manufacturing Authority; Foreign-Trade Zone 177; Best Chair, Inc., d/b/a Best Home Furnishings, Inc. (Upholstered Furniture); Ferdinand, Cannelton, and Paoli, IN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Ports of Indiana, grantee of Foreign-Trade Zone 177, has requested manufacturing authority on behalf of Best Chair, Inc., d/b/a Best Home Furnishings, Inc., within FTZ 177 in Ferdinand, Cannelton, and Paoli, Indiana (FTZ Docket 22–2011, filed 3–17–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 16379, 3–23–2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that the proposal would be in the public interest if approval were subject to certain restrictions and conditions;

Now, therefore, the Board hereby orders:

The application for manufacturing authority under zone procedures within FTZ 177 on behalf of Best Chair, Inc., d/b/a Best Home Furnishings, Inc. (Best Home), as described in the application and **Federal Register** notice, is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and further subject to the following restrictions and conditions:

1. The annual quantitative volume of foreign micro-denier suede upholstery fabric finished with a hot caustic soda solution that Best Home may admit to FTZ 177 under nonprivileged foreign status (19 CFR § 146.42) is limited to 2.28 million square yards.

2. Best Home must admit all foreign-origin upholstery fabrics other than micro-denier suede fabric finished with a hot caustic soda solution to the zone under domestic (duty-paid) status (19 CFR 146.43).

3. For the purpose of monitoring by the FTZ Staff, Best Home shall submit additional operating information to supplement its annual report data.

4. The authority for Best Home shall remain in effect for a period of five years from the date of approval by the FTZ Board.

Signed at Washington, DC, this 31st day of January 2012.

Paul Piquado,

Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2012–2917 Filed 2–7–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–912]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the 2009–2010 Administrative Review of the Antidumping Duty Order

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

DATES: *Effective Date:* February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Raquel Silva, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–6475.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 2010, the Department of Commerce ("Department") initiated the administrative review of the antidumping duty order on certain new pneumatic off-the-road tires ("off-the-road tires") from the People's Republic of China ("PRC") for the period, September 1, 2009, through August 31, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 66349 (October 28, 2010). On October 7, 2011, the Department published its preliminary results of the administrative review of the antidumping order on off-the-road tires from the PRC. *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Results of the 2009–2010 Antidumping Duty Administrative Review and Intent to Rescind, in Part,* 76 FR 62356 (October 7, 2011). The final results are currently due no later than, February 4, 2012.

Extension of Time Limit for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"),

requires the Department to issue the final results in an administrative review within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time period to a maximum of 180 days.

We determine that it is not practicable to complete the final results of this review within the current deadline because the Department continues to require additional time to analyze issues raised in recent surrogate value submissions, case briefs, and rebuttals. Therefore, in accordance with section 751(a)(3)(A) of the Act, we are extending the time limit for completion of the final results of this administrative review by 14 days, until February 18, 2012. However, because February 18, 2012, falls on a Saturday and the first weekday thereafter is a federal holiday, the final results are now due no later than February 21, 2012. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

This notice is published pursuant to sections 751(a) and 777(i) of the Act.

Dated: February 2, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–2907 Filed 2–7–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–807]

Preliminary Negative Determination and Extension of Time Limit for Final Determination of Circumvention of the Antidumping Duty Order on Ferrovanadium and Nitrided Vanadium From the Russian Federation

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

SUMMARY: On May 2, 2011, pursuant to an allegation by AMG Vanadium, Inc. (AMG Vanadium), the Department of Commerce (the Department) initiated an anticircumvention inquiry to determine whether imports of vanadium pentoxide from the Russian Federation (Russia) that are converted into ferrovanadium in the United States are circumventing the antidumping duty order on ferrovanadium and nitrided vanadium (ferrovanadium) from Russia.[1] We preliminarily determine that the importation of vanadium pentoxide by the Evraz Group,[2] which is toll-converted into ferrovanadium in the United States by the Bear Metallurgical Corporation (BMC), prior to sale to unaffiliated customers in the United States, does not constitute circumvention of the aforementioned order, within the meaning of section 781(a) of the Tariff Act of 1930, as amended (the Act).

DATES: *Effective Date:* February 8, 2012.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Rebecca Trainor, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1995, the Department published an antidumping duty order on ferrovanadium from Russia.[3] On February 25, 2011, AMG Vanadium requested that the Department initiate an anticircumvention inquiry pursuant to section 781(a) of the Act, and 19 CFR 351.225(c) and (g), to determine whether imports of vanadium pentoxide from Russia, produced by Evraz Group member OAO Vanady-Tula, that are processed into ferrovanadium in the United States under a tolling agreement with the unaffiliated processor, BMC, and sold by Evraz Group member EMNA to unaffiliated U.S. customers, are circumventing the antidumping duty order on ferrovanadium from Russia. AMG Vanadium submitted additional information in support of its request on March 16, 2011.

On May 2, 2011, the Department initiated the anticircumvention inquiry with respect to the Evraz Group's imports of vanadium pentoxide which are toll-converted into ferrovanadium by BMC in the United States. *See* Initiation Notice. In June 2011, the Department issued questionnaires to the Evraz Group and BMC. The Evraz Group and BMC responded to their respective questionnaires in July 2011. The Department issued supplemental questionnaires to each company in August 2011. The Evraz Group and BMC responded to these supplemental questionnaires in August and September 2011, respectively.

In September 2011, the Department conducted verifications at EMNA and BMC. In October 2011, the Department issued verification reports.[4]

AMG Vanadium submitted comments for consideration in the preliminary determination of this inquiry on December 19, 2011. On January 6, 2012, the Evraz Group and BMC submitted comments in response to AMG Vanadium's submission.

Scope of the Order

The products subject to this order are ferrovanadium and nitrided vanadium, regardless of grade, chemistry, form or size, unless expressly excluded from the scope of this order. Ferrovanadium includes alloys containing ferrovanadium as the predominant element by weight (*i.e.*, more weight than any other element, except iron in some instances) and at least 4 percent by weight of iron. Nitrided vanadium includes compounds containing vanadium as the predominant element, by weight, and at least 5 percent, by weight, of nitrogen. Excluded from the scope of the order are vanadium additives other than ferrovanadium and nitrided vanadium, such as vanadium-aluminum master alloys, vanadium chemicals, vanadium waste and scrap, vanadium-bearing raw materials, such as slag, boiler residues, fly ash, and vanadium oxides.

The products subject to this order are currently classifiable under subheadings 2850.00.20, 7202.92.00, 7202.99.50.40, 8112.40.30.00, and 8112.40.60.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Scope of the Anticircumvention Inquiry

The product subject to this anticircumvention inquiry is vanadium pentoxide (V_2O_5) from Russia, which is usually in a granular form and may contain other substances, including silica (SiO_2), manganese, and sulfur, and which is converted into ferrovanadium in the United States. Such merchandise is classifiable under subheading 2825.30.0010 of the HTSUS. This

[1] *See Initiation of Anticircumvention Inquiry on Antidumping Duty Order on Ferrovanadium and Nitrided Vanadium From the Russian Federation,* 76 FR 26243 (May 6, 2011) (Initiation Notice).

[2] The Evraz Group includes OAO Vanady-Tula, East Metals S.A., and East Metals N.A. (EMNA).

[3] *See Notice of Antidumping Order: Ferrovanadium and Nitrided Vanadium From the Russian Federation,* 60 FR 35550 (July 10, 1995).

[4] *See* Memorandum to The File entitled "Verification of the Questionnaire Responses of the Evraz Group S.A." dated October 7, 2011 (Evraz Verification Report), and Memorandum to The File entitled "Verification of the Questionnaire Responses of Bear Metallurgical Company" dated October 7, 2011 (BMC Verification Report).

inquiry only covers such products that are imported by the Evraz Group and converted into ferrovanadium in the United States by BMC.

Applicable Statute

Section 781(a) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in the United States. In conducting anticircumvention inquiries under section 781(a)(1) of the Act, the Department determines whether (A) merchandise sold in the United States is of the same class or kind as any other merchandise produced in a foreign country that is the subject of an antidumping duty order; (B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the antidumping duty order applies; (C) the process of assembly or completion in the United States is minor or insignificant; and (D) the value of the parts or components referred to in (B) is a significant portion of the total value of the merchandise.

With regard to sub-part (C), section 781(a)(2) of the Act specifies that the Department "shall take into account: (A) The level of investment in the United States; (B) the level of research and development in the United States; (C) the nature of the production process in the United States, (D) the extent of production facilities in the United States; and (E) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States."

In addition, the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H. R. Doc. No. 103–316, at 893 (1994), states that no single factor listed in section 781(a)(2) of the Act will be controlling. The SAA also states that the Department will evaluate each of the factors as they exist in the United States depending on the particular circumvention scenario. *See id.* Therefore, the importance of any one of the factors listed under 781(a)(2) of the Act can vary from case to case depending on the particular circumstances unique to each specific circumvention inquiry. Further, section 781(a)(3) of the Act directs the Department to consider, in determining whether to include parts or components produced in a foreign country within the scope of an antidumping duty order, such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order applies; and (C) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

Statutory Analysis

A. Merchandise of the Same Class or Kind

The merchandise sold by the Evraz Group in the United States is ferrovanadium. Based on the description provided by the Evraz Group in its questionnaire responses,[5] this merchandise is of the same class or kind as the merchandise subject to the antidumping duty order.

B. Completion of Merchandise in the United States

As detailed in the Evraz Group and BMC questionnaire responses and the two verification reports (*see, e.g.,* Evraz QR at pages 3–4 and 6–7), the vanadium pentoxide produced in Russia by OAO Vanady-Tula is imported into the United States by members of the Evraz Group[6] and further processed into ferrovanadium by BMC. BMC converts the vanadium pentoxide into ferrovanadium in the United States under a tolling agreement with the Evraz Group. The Evraz Group retains title to the merchandise throughout the conversion process and sells the ferrovanadium in the United States after the completion of the conversion.

C. Minor or Insignificant Process

As explained above, section 781(a)(2) of the Act sets forth the relevant statutory factors to consider in determining whether the processing in the United States is "minor or insignificant." These factors include: (1) The level of investment in the United States; (2) the level of research and development in the United States; (3) the nature of the production process in the United States; (4) the extent of production facilities in the United States; and (5) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States. Our analysis of the statutory factors to determine whether the process in the United States is minor or insignificant in accordance with sections 781(a)(1)(C) and 782(a)(2) of the Act follows below.

(1) Level of Investment in the United States

The facilities for converting vanadium pentoxide into ferrovanadium are owned by BMC. BMC has been producing ferrovanadium from vanadium pentoxide since the early 1990s, prior to the initiation of the underlying less-than-fair-value (LTFV) investigation of ferrovanadium from Russia. BMC discussed its recent investment activity in its July 18, 2011, questionnaire response (BMC QR) at pages 19–20, and its September 2, 2011, supplemental questionnaire response (BMC SQR) at page 8. Because BMC has requested proprietary treatment for most of the investment information it provided, that information cannot be summarized in this notice. However, the Evraz Group has placed on the record publicly available information concerning the market value of BMC's production facility. Specifically, the Evraz Group noted in the Evraz QR at page 19 that BMC's market value in 2005 was approximately $24 million, and that BMC has engaged in a number of expansion projects in the last 15 years. The Evraz Group also noted in its March 25, 2011, submission (Evraz March 25 Submission) that the International Trade Commission (ITC) concluded in the 1995 antidumping injury investigation that:

> {BMC} is a domestic producer {of ferrovanadium} because the activities in which it engages involve significant production operations and production costs and a level of technical expertise that adds substantial value to the end product it produces * * * Bear accounted for a significant percentage of domestic production during the period {of the investigation} and its level of employment, production assets, investments, and R&D expenses for production of ferrovanadium are significant.[7]

(2) Level of Research and Development in the United States

While BMC's process for converting vanadium pentoxide into ferrovanadium has not changed since BMC began operations, BMC reported certain

[5] *See* the Evraz Group's July 12, 2011, questionnaire response (Evraz QR) at page 8, and the Evraz Group's August 31, 2011, supplemental questionnaire response (Evraz SQR) at pages 6–7.

[6] Currently EMNA imports, and previously another Evraz Group affiliate Strategic Minerals Corporation (Stratcor) imported, the OAO Vanady-Tula-produced vanadium pentoxide into the United States.

[7] *See Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731–TA–702 (Final),* USITC Pub. 2904 (June 1995) (ITC Investigation Report) at page I–9 and n.28; included as Attachment E in the Evraz March 25 Submission.

research and development activities during the inquiry period. *See* BMC QR at page 20 and Exhibit 4, as revised in BMC's September 23, 2011, submission. The expenditures associated with these activities are not as high as those made when BMC began operations. Nevertheless, the nature of these activities demonstrates BMC's ongoing improvement of its ferrovanadium production in the United States.

(3) Nature of the Production Process in the United States

The production process for converting vanadium pentoxide into ferrovanadium is detailed in the Evraz QR at pages 16–17 and Exhibit 11, the BMC QR at pages 10–17, and the SQR at pages 1–6. *See* also BMC Verification Report at page 2. In brief, this process begins with the chemical analysis of the vanadium pentoxide input provided by each customer to determine the correct blend of oxides and reagents. Then the vanadium pentoxide, aluminum, iron scrap, and flux is charged in a magnesite-lined vessel and the reagents are ignited. In the ensuing reaction, the aluminum metal is converted to alumina, forming a slag, and the vanadium pentoxide is reduced to vanadium metal, which dissolves in the molten iron to form ferrovanadium. The resulting slab is then cooled and removed from its vessel, the layer of ferrovanadium metal is separated from the layer of slag, and the ferrovanadium is conveyed to a separate part of the facility for crushing, sizing and packaging. This conversion process results in the complete transformation of the chemical and physical properties of the vanadium pentoxide into ferrovanadium. As such, it is not indicative of a simple completion or assembly operation. Furthermore, as indicated above, the ITC has found that BMC's conversion process constitutes domestic production of ferrovanadium.[8]

(4) Extent of Production Facilities in the United States

BMC reports the extent of its Butler, PA production facility, including its size, the capital equipment installed, and the number of full-time employees, at pages 17–19 of the BMC QR. BMC also produces ferromolybdenum at this facility. Nearly all of its production equipment is suitable to produce either ferrovanadium or ferromolybdenum, and BMC's production labor force is trained to perform each of the various functions involved in producing both ferrovanadium and ferromolybdenum. *See* BMC Verification Report at page 2.

BMC requested proprietary treatment for the information it provided regarding the extent of its production facilities. Relying on publicly available information from BMC's Web site, the Evraz Group reported in the Evraz QR at page 19 and Exhibit 13, that BMC employs more than 35 workers at its 100,000 square foot facility.

(5) Value of Processing in the United States Compared to Value of the Merchandise Sold in the United States

We calculated the value of the processing in the United States using the tolling fees the Evraz Group paid to BMC from 2008 through 2010, for converting imported vanadium pentoxide into ferrovanadium, as reported by the Evraz Group in its questionnaire responses. To calculate the value of the ferrovanadium sold in the United States, we used the ex-BMC price of ferrovanadium produced at BMC from Russian vanadium pentoxide that the Evraz Group sold to unaffiliated customers in the United States, as reported by the Evraz Group in its questionnaire responses. As the toll-production of ferrovanadium was not often tied to specific ferrovanadium sales, to compare the value of processing to the value of the merchandise sold in the United States, we first calculated monthly weighted averages of the tolling fees paid to BMC. We then matched each ferrovanadium sale to the weighted-average tolling fee corresponding to the month of the ferrovanadium sale. Where there was no toll-production during the month of sale, we matched the ferrovanadium sale to the weighted-average tolling fee for the closest month of production prior to the month of the sale. We then divided the weighted-average tolling fee by the ex-BMC ferrovanadium price to derive a percentage reflecting the value of the processing in the United States relative to the value of the ferrovanadium sold in the United States.

Based on our calculations, we found that the value of processing performed in the United States ranged from approximately 6 percent to 26 percent on individual transactions from 2008 through 2010. When calculated on an annual, weighted-average basis, these percentages ranged from approximately 7 percent to 18 percent during the 2008–2010 inquiry period. However, as noted by the Evraz Group at page 10 of its March 25, 2011, submission and confirmed in our calculations, the cost of converting vanadium pentoxide was relatively constant during this period at roughly $2.00 per pound on a contained vanadium basis, while the price of ferrovanadium fluctuated significantly, ranging from under $10 per pound to over $30 per pound. In particular, ferrovanadium prices in 2008 were significantly higher than ferrovanadium prices in 2009 and 2010, which in turn resulted in a significantly lower weighted-average U.S. processing value ranging from approximately 6 to 8 percent in 2008. During 2009 and 2010, ferrovanadium prices ranged from around $9 to $17 per pound (*see, e.g.*, AMG Vanadium February 25, 2011, anticircumvention inquiry request (AMG Request) at Exhibit 18). Thus, the U.S. processing value ranged from approximately 12 to 26 percent during 2009–2010. Because the calculation of the value of U.S. processing is based upon proprietary data, the value-added percentages presented above have been ranged. For a more detailed discussion of the calculation of the value of U.S. processing, *see* the memorandum to the file entitled "Preliminary Determination Calculation of Value Added in the United States" (Value Added Memo).

D. Value of Merchandise Produced in the Foreign Country Is a Significant Portion of the Value of the Merchandise Sold in the United States

Under section 781(a)(1)(D) of the Act, the value of the imported parts or components must be a significant portion of the total value of the subject merchandise sold in the United States in order to find circumvention. The vanadium pentoxide is the primary material input into the production of ferrovanadium and a substantial portion of the value of the toll-produced ferrovanadium is based upon this material cost. With respect to the value of the imported vanadium pentoxide, the Evraz Group reported, and we verified, that during the inquiry period it made no sales of Russian-produced vanadium pentoxide to unaffiliated parties other than a relatively small quantity shipped to a third-country customer under a pre-inquiry period contract. *See* Evraz QR at pages 14–15 and Exhibit 6, and Evraz Verification Report at page 4. Due to the small quantity, we did not consider these third-country sales for purposes of valuing Russian vanadium pentoxide pursuant to section 781(a)(1)(D) of the Act. Because the only reported source for the price of the imported vanadium pentoxide is the transaction between affiliated parties (*i.e.*, from OAO Vanady-Tula to Stratcor or EMNA) in this case, we estimated the value of the

[8] *See* ITC Investigation Report at page I–9 (included in Evraz March 25 submission at Attachment E); and *Ferrovandium and Nitrided Vanadium from Russia, Inv. No. 731–TA–702 (Second Review)*, US ITC Pub. 3887 (September 2006) at page 6; included as Attachment F in the Evraz March 25 Submission.

Russian vanadium pentoxide consumed to produce ferrovanadium as the difference between the net price of the ferrovanadium sold to unaffiliated parties and the cost of conversion in the United States (*i.e.*, the inverse of the calculation of the value of U.S. processing described above). Accordingly, we found that the value of the Russian vanadium pentoxide ranged from approximately 74 to 94 percent of the value of the ferrovanadium sold in the United States during the 2008–2010 inquiry period. When calculated on an annual, weighted-average basis, the value of the Russian vanadium pentoxide relative to the value of the ferrovanadium sold in the United States was over 80 percent during each year of the 2008–2010 inquiry period. *See* Value Added Memo.

E. Factors To Consider in Determining Whether Action Is Necessary

Section 781(a)(3) of the Act identifies additional factors that the Department shall consider in its decision to include parts or components in an antidumping duty order as part of an anticircumvention investigation. These factors are discussed below.

Pattern of Trade, Including Sourcing Patterns

As discussed in the AMG Request, following the imposition of the antidumping duty order in 1995, imports of ferrovanadium from Russia ceased in total by 1997; however, since 2005, imports of vanadium pentoxide from Russia have increased from 27 metric tons (MT) in 2005 to 2,680 MT in 2010. *See also* U.S. import statistics submitted by the Evraz Group at Exhibit 3 of the Evraz QR.

Although the Evraz Group was not involved in the U.S. ferrovanadium market until 2008, its affiliates OAO Vanady-Tula and Stratcor sold vanadium-pentoxide or ferrovanadium to U.S. customers prior to their respective acquisition by the Evraz Group. OAO Vanady-Tula was a respondent in the underlying LTVF investigation when it was known as SC Vanady Tulachermet. Subsequently, OAO Vanady-Tula had its vanadium pentoxide processed into ferrovanadium in the Czech Republic for sale to the United States and other countries. Stratcor produced vanadium pentoxide in the United States prior to the initiation of the LTFV investigation. Stratcor has had a substantial portion of its vanadium pentoxide products toll-processed at BMC since BMC's establishment, and continues to do so. According to the Evraz Group, the only significant change in the pattern of trade and sourcing of material that has occurred since 2008, when it obtained the marketing rights for OAO Vanady-Tula, is that the Evraz Group is exporting Russian vanadium pentoxide to BMC in the United States, rather than to a Czech company, for conversion into ferrovanadium and ultimate sale to U.S. customers. *See* Evraz SQR at pages 3–6.

As noted above, BMC has toll-produced ferrovanadium from vanadium pentoxide since it began operations in the early 1990s, prior to the initiation of the LTFV investigation. BMC has continued to produce ferrovanadium from vanadium pentoxide in the same manner. BMC has maintained a relationship with Stratcor since 1993, first as the toll-converter of vanadium pentoxide produced by Stratcor and later as the toll-converter of vanadium pentoxide imported by Stratcor and EMNA. *See, e.g.*, Evraz Verification Report at page 2, and BMC Verification Report at pages 1–2.

Affiliation

Under section 781(a)(3)(B) of the Act, the Department shall take into account whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country when making a decision in an anticircumvention case. As stated in the Initiation Notice and subsequently confirmed in the questionnaire responses and verification reports, the Evraz Group, through its affiliates, produces vanadium pentoxide in Russia, ships and imports it into the United States, has it converted into ferrovanadium by an unaffiliated company while maintaining title to the product, and sells the completed ferrovanadium to customers in the United States. Thus, the manufacturer, exporter, and U.S. importer of the Russian vanadium pentoxide, as well as the party overseeing the conversion process and ultimate sale of the ferrovanadium in the United States, are all under the common ownership and control of a single entity, the Evraz Group. However, the entity which performs the conversion process (*i.e.*, the entity which actually "completes" the merchandise in the United States) is not affiliated with the Evraz Group.

Subsequent Import Volume

Under section 781(a)(3)(C) of the Act, the Department shall take into account whether imports into the United States of the parts or components produced in the foreign country have increased after the initiation of the investigation, which resulted in the issuance of the order, when making a decision in an anticircumvention case. In the Initiation Notice, we noted that AMG Vanadium claimed in the AMG Request that imports of vanadium pentoxide from Russia were zero from 1995 to 2004, and then increased to approximately 2,680 MT by 2010. This assertion is confirmed by U.S. import statistics, as submitted at Exhibit 3 of the Evraz QR, and our verification findings (*see* Evraz Verification Report at page 4).

Analysis

As discussed above, in order to make an affirmative determination of circumvention, all the criteria under section 781(a)(1) of the Act must be satisfied. In addition, section 781(a)(3) of the Act instructs the Department to consider, in determining whether to include parts or components within the scope of an order, such factors as pattern of trade, affiliation, and import volume.

With respect to the four criteria under section 781(a)(1) of the Act, we find that three of the four criteria have been satisfied to find circumvention. As discussed above, (A) the merchandise sold in the United States, ferrovanadium, is of the same class or kind as any other merchandise that is the subject of the antidumping duty order on ferrovanadium from Russia; (B) the ferrovanadium sold in the United States is completed in the United States from parts or components (*i.e.*, vanadium pentoxide), produced in Russia; and (D) the value of the Russian-produced vanadium pentoxide used in the production of ferrovanadium in the United States is a significant portion of the total value of the ferrovanadium sold in the United States. However, as discussed below, based on our analysis of all the relevant factors under section 781(a)(2) of the Act and the record information, we do not find that the remaining criterion found at section 781(a)(1)(C) of the Act, the process of assembly or completion in the United States is minor or insignificant, has been satisfied.

Although the Evraz Group is the entity that retains title to the imported vanadium pentoxide, it is BMC which performs the actual conversion of the imported material into ferrovanadium. Therefore, it is BMC's production process which is relevant to our analysis with respect to whether the process of assembly or completion in the United States is minor or insignificant. As discussed above, BMC has been processing vanadium pentoxide into ferrovanadium for approximately twenty years. The ITC concluded in

1995 that BMC's level of domestic activity in toll-converting vanadium pentoxide into ferrovanadium was significant and resulted in substantial added value. BMC's level of activity in the United States was determined to be substantial enough for BMC to be considered a domestic producer of ferrovanadium. *See* ITC Investigation Report. More recently, in 2006, the ITC continued to view BMC as part of the domestic ferrovanadium industry through its toll-conversion of vanadium pentoxide, and referred to the exclusion of producers of vanadium pentoxide from the domestic industry of ferrovanadium because they produced only the intermediate product involved in ferrovanadium production.[9]

Our analysis of the questionnaire responses and our verification findings yield a similar conclusion to that of the ITC—that BMC's production process involves significant operations. Specifically, the toll-conversion process is more than a mere finishing or assembly process. As described above, it entails a series of processes that cause the chemical reaction necessary to convert vanadium pentoxide, in powder or flake form, to molten metallic vanadium and then alloys it with metallic iron to form a solid. The result is the complete chemical and physical transformation of one material, vanadium pentoxide, into another material with a completely different physical and chemical structure, ferrovanadium. This process requires a significant financial investment in a physical plant and equipment—one BMC made at its inception—and the employment of a significant number of skilled and/or trained employees. While the reported investment and R&D expenditures BMC made since 2008 may not be as large as those made at BMC's establishment, we would not necessarily expect a high degree of new investment and R&D in BMC's case, as it is a well-established enterprise which performs a well-established conversion/production process. BMC's recent investment and R&D expenditures nevertheless demonstrate its commitment to sustain and improve its current operations.

In assessing the calculation of the value of the processing in the United States compared to the value of the ferrovanadium sold in the United States, we must take into account the qualitative factors described above, with particular focus on the nature of the production process, consistent with past case precedent and the intent of Congress. In prior anticircumvention inquiries, the Department has explained that Congress directed the agency to focus more on the nature of the production process and less on the difference in value between the subject merchandise and the parts and components imported into the processing country.[10] Additionally, the Department has explained that, following the Uruguay Round Agreements Act, Congress redirected the agency's focus away from a rigid numerical calculation of value-added toward a more qualitative focus on the nature of the production process.[11] As discussed above, during the inquiry period, the value of the toll-conversion was relatively constant, while ferrovanadium prices fluctuated greatly. Therefore, the value of the U.S. production activity relative to the ferrovanadium sales price varied greatly between 2008 and 2010. When ferrovanadium prices were high in 2008, we observed that the U.S. value added percentage we calculated ranged from approximately 6 to 8 percent. As ferrovanadium prices stabilized in 2009 and 2010, we observed that the vast majority of the U.S. value-added percentages we calculated ranged from approximately 15 to 20 percent. *See* Value Added Memo at Attachments 3 and 4. In calculating these percentages, we note that the Department has not established specific value-added percentages that would signal the significance of value added. Rather, the Department examines the totality of the circumstances in light of the statutory criteria on a case-by-case basis.

AMG Vanadium notes at page 12 of the AMG Request that the Department has found valued-added percentages of 10 to 20 percent to be "small" in the context of affirmative determinations of circumvention. However, the production or finishing processes in the cases cited in the AMG Request differ qualitatively from the ferrovanadium production process in this inquiry. With respect to the granular polytetrafluoroethylene (PTFE) resin from Italy circumvention inquiry, the Department determined that the subject of the inquiry, PTFE wet raw polymer, already possessed the basic physical characteristics that distinguished granular PTFE resin from other forms of PTFE resin. Thus the respondent's post-treatment activity in the United States of cutting PTFE wet raw polymer and drying it to form granular PTFE resin was deemed relatively minor.[12]

In the brass sheet and strip from Canada circumvention inquiry, a re-roller in the United States imported brass plate from Canada (which was outside the scope of the antidumping duty order) and performed rolling, annealing, pickling, and slitting operations which resulted in brass sheet and strip. The Department concluded in that inquiry that the re-roller "imported brass plate, a product which was {only} one rolling step short of constituting sheet and strip {the merchandise subject to the order}."[13] That is, only with respect to product thickness did the imported brass plate differ physically from the brass sheet and strip included in the antidumping duty order. Therefore, the Department determined that the value added by the re-roller in the United States was small.

With respect to the butt-weld pipe fittings from the People's Republic of China (China) circumvention case, the Department's inquiry covered imports of pipe fittings finished in Thailand that were completed from unfinished "as-formed" pipe fittings manufactured in China. The Thai processor performed cutting, heat treatment, shot blasting, machining, cleaning, and coating operations on the unfinished pipe fittings. No additional materials (other than coating materials) were added to the unfinished pipe fitting, thus the processing in the intermediate country did not alter the chemical composition of the Chinese material. Accordingly, the Department found that the finishing operations performed in Thailand were minor.[14]

[9] *See Ferravanadium and Nitrided Vanadium From Russia, Inv. No. 731–TA–702 (Second Review)*, USITC Pub. 3887 (September 2006) at page 6, included as Attachment F of the Evraz March 25 submission.

[10] *See, e.g., Anti-Circumventian Inquiry of the Antidumping and Countervailing Duty Orders an Certain Pasta From Italy: Affirmative Preliminary Determinatians of Circumventian of Antidumping and Countervailing Duty Orders*, 68 FR 46571, 46575 (August 6, 2003) (*Pasta Circumventian Prelim*), unchanged in *Anti-Circumventian Inquiry of the Antidumping and Countervailing Duty Orders an Certain Pasta From Italy: Affirmative Final Determinatians of Circumventian of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003) (*Pasta Circumventian Final*).

[11] *See Pasta Circumventian Prelim*, 68 FR at 46575, unchanged in *Pasta Circumventian Final*.

[12] *See Granular Palytetrafluaraethylene Resin From Italy: Final Affirmative Determination of Circumventian of Antidumping Duty Order*, 58 FR 26100, 26110 (April 30, 1993).

[13] *See Brass Sheet and Strip From Canada; Final Affirmative Determination of Circumventian of Antidumping Duty Order*, 58 FR 33610, 33613 (June 18, 1993).

[14] *See Certain Carbon Steel Butt-Weld Pipe Fittings From the Peaple's Republic of China: Affirmative Preliminary Determinatian of Circumventian of Antidumping Duty Order*, 59 FR 62, 64 (January 3, 1994), unchanged in *Certain Carbon Steel Butt-Weld Pipe Fittings From the Peaple's Republic of China: Affirmative Final Determination of Circumventian of Antidumping Duty Order*, 59 FR 15155 (March 31, 1994).

In the above-cited cases, while the value-added percentage may have been as high as 20 percent, the production processes were relatively minor, involving finishing operations that did not alter the chemical structure or basic physical nature of the imported material. In contrast, the processing of vanadium pentoxide into ferrovanadium requires the complete transformation of the chemical and physical properties of the imported material. Therefore, the valued-added ranges we calculated, as discussed above, when viewed in combination with this fundamental alteration of the imported material, are not small. After considering these factors, as well as the level of investment, research and development, and extent of production facilities, we preliminarily conclude that the process of completing/producing ferrovanadium from vanadium pentoxide in the United States is neither minor nor insignificant, pursuant to section 781(a)(1)(C) of the Act.

Pursuant to section 781(a)(3), we also considered the additional factors of pattern of trade, affiliation, and import trends after the initiation of the investigation which resulted in the antidumping duty order on ferrovanadium from Russia.

Pattern of Trade

As discussed above, imports of ferrovanadium from Russia ceased within two years of the imposition of the antidumping duty order in 1995. Imports of vanadium pentoxide from Russia increased almost ten-fold from 2005 to 2010. While toll-processing of vanadium pentoxide has been a consistent aspect of the U.S. ferrovanadium industry, the sourcing of substantial quantities of vanadium pentoxide from Russia is a recent trend. In other words, imports of vanadium pentoxide from Russia did not begin until 10 years after the order was imposed. We do not find that these changes in the pattern of trade, when viewed in conjunction with the other statutory factors under section 871(a)(3) of the Act, support including vanadium pentoxide in the antidumping order.

Affiliation

Generally, we consider circumvention to be more likely when the manufacturer/exporter of the parts or components is related to the party completing or assembling merchandise in the United States using the imported parts or components. As discussed above, in this case, the manufacturer of the Russian vanadium pentoxide (Evraz Group member OAO Vanady-Tula) and the party converting the merchandise into ferrovanadium in the United States (BMC) are not affiliated parties. BMC toll-processes the Russian vanadium pentoxide under the terms of its agreement with the Evraz Group.

Import Volume

Imports of vanadium pentoxide from Russia did not begin until 10 years after the order was imposed. We do not find that this change in imports, when viewed in conjunction with the other statutory factors under section 781(a)(3) of the Act, supports including vanadium pentoxide in the antidumping order.

Preliminary Negative Determination

Based upon our analysis of all of the factors under section 781(a) of the Act, as detailed above, we preliminarily find that circumvention of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia is not occurring by reason of imports of vanadium pentoxide from Russia by the Evraz Group.

Public Comment

Case briefs from interested parties may be submitted no later than 30 days from the date of publication of this notice. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c). This summary should be limited to five pages total, including footnotes. Rebuttal briefs limited to issues raised in the case briefs may be filed no later than 35 days after the date of publication of this notice. *See* 19 CFR 351.309(d).

Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. We intend to hold a hearing, if requested, no later than 40 days after the date of publication of this notice.

The Department intends to publish the final determination with respect to this anti-circumvention inquiry, including the results of its analysis of any written comments, no later than August 24, 2012. This deadline date reflects a 180-day extension of the original deadline date for the final determination pursuant to section 781(f) of the Act. This deadline extension is necessary due to the complicated nature of this proceeding and in order to allow sufficient opportunity for the submission and analysis of interested party comments for the final determination.

This negative preliminary circumvention determination, extension of the time limit for the final determination, and notice are in accordance with section 781(a) of the Act and 19 CFR 351.225(g).

Dated: January 31, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–2913 Filed 2–7–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Certain Welded Carbon Steel Standard Pipe and Tube From Turkey: Notice of Final Rescission of Countervailing Duty Administrative Review, In Part

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

DATES: *Effective Date:* February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4793

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2011, the Department of Commerce (the Department) published a

notice of opportunity to request an administrative review of the countervailing duty (CVD) order on certain welded carbon steel pipe and tube from Turkey for the period of review (POR) of January 1, 2010, through December 31, 2010. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 76 FR 11197 (March 1, 2011). On March 30, 2011, we received a letter from Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (ERBOSAN) requesting that the company's entries for the POR be reviewed by the Department. On April 27, 2011, the Department published the notice of initiation of the administrative review of this CVD order for the POR, which included ERBOSAN.[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 76 FR 23545 (April 27, 2011).

On October 27, 2011, the Department requested U.S. Customs and Border Protection (CBP) data on Type 3 entries [2] of subject merchandise to the United States produced by ERBOSAN during the POR. *See* Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding "Request for Customs Data in the Countervailing Duty Administrative Review of Certain Welded Carbon Steel Standard Pipe from Turkey," (October 27, 2011). We reviewed the customs data provided by CBP and found there were no suspended entries of subject merchandise produced by ERBOSAN during the POR.

On November 3, 2011, we issued a letter to ERBOSAN explaining that the Department's practice requires there to be a suspended entry during the POR upon which to assess duties in order to conduct an administrative review.[3] As such, we requested that ERBOSAN submit evidence demonstrating that the company had a Type 3 entry of subject merchandise to the United States during the CVD POR. We explained that if ERBOSAN was unable to provide such documentation, the Department will find that there are no suspended entries of subject merchandise produced by ERBOSAN against which to assess duties and will rescind the 2010 CVD administrative review with respect to the company. *See* Letter from the Department to ERBOSAN regarding "Entry Documentation," (November 3, 2011). On November 17, 2011, ERBOSAN reported that it did not have entry documentation because the exports of subject merchandise to the United States during the POR were to an unrelated importer. *See* ERBOSAN's "Response to Entry Documentation Request," (November 17, 2011) at 2.

On December 20, 2011, we published the notice of preliminary rescission of this CVD duty administrative review with respect to ERBOSAN, and invited interested parties to comment on the preliminary decision. *See Certain Welded Carbon Steel Standard Pipe and Tube from Turkey: Intent to Rescind Countervailing Duty Administrative Review, In Part*, 76 FR 78886 (December 20, 2011) (*Preliminary Rescission*). We received comments from Wheatland Tube Company (the petitioner) and ERBOSAN on January 9, 2012. All comments raised by the parties are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. The Issues and Decision Memorandum is a public document and is on file electronically via IA ACCESS, which is available to the public in the Department's Central Record Unit. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/*. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Partial Rescission of Review

Because there are no suspended entries of subject merchandise produced by ERBOSAN for the CVD POR, we determine to rescind the review for ERBOSAN. In *Allegheny Ludlum Corp.* v. *United States*, 346 F.3d 1368 (Fed. Cir. 2003), the Court of Appeals for the Federal Circuit upheld the Department's practice of rescinding annual reviews when there are no entries of subject merchandise during the POR, which is identical to this current administrative review.

This administrative review will remain in effect for all other companies for which the review was initiated, namely the Borusan Group, Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Istikbal Ticaret T.A.S., Tosyali dis Ticaret A.S., and Toscelik Profil ve Sac Endustrisi A.S.

We are issuing and publishing this decision and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 2, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–2919 Filed 2–7–12; 8:45 am]

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[1] A review of the following companies was also initiated: Borusan Group, Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Istikbal Ticaret T.A.S., Tosyali dis Ticaret A.S., and Toscelik Profil ve Sac Endustrisi A.S.

[2] A Type 3 entry is an entry of merchandise imported into the United States which is subject to antidumping or countervailing duties, as the case may be, and for which liquidation is suspended until after the completion of an administrative review in which the assessment rate is calculated.

[3] *See, e.g., Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results of Antidunping Duty Administrative Review*, 76 FR 42679 (July 19, 2011), and accompanying Issues and Decision Memorandum at Comment 1; *see also Certain Cut-to-Length Carbon-Quality Steel Plate Products from Italy: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 39299, 39302 (July 12, 2006), and *Portable Electric Typewriters from Japan; Final Results of Antidumping Duty Administrative Review*, 56 FR 14072, 14073 (April 5, 1991).

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 120203097–2097–01]

RIN 0660–XA26

Privacy Act of 1974: Systems of Records

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce publishes this notice to announce the deletion of a Privacy Act System of Records entitled, COMMERCE/NTIA–1 "Applications Related to Coupons for Digital-to-Analog Converter Boxes." The Digital-to-Analog Converter Box Program has been terminated and this system of records will be deleted to comply with the applicable Disposition Authority.

DATES: This system of records will be deleted on February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Danielle N. Rodier, Attorney-Advisor, Office of the Chief Counsel, National Telecommunications and Information Administration, Room 4713, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On December 23, 2011, the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, published a notice in the **Federal Register** requesting comments on the deletion of a Privacy Act System of Records, entitled COMMERCE/NTIA–1, "Applications Related to Coupons for Digital-to-Analog Converter Boxes." (76 FR 80344; Dec. 23, 2011). NTIA received no comments in response to this notice.

The National Archives and Records Administration (NARA) authorized

NTIA to dispose of records (Disposition Authority) associated with the Digital-to-Analog Converter Box Program, including this system of records. *See* Request for Records Disposition Authority, N1–417–08–1 (July 13, 2009), available at *http://www.archives.gov/records-mgmt/rcs/schedules/departments/department-of-commerce/rg-0417/n1–417–08–001_sf115.pdf*. The Disposition Schedule provides that applicant household records are to be deleted two years after termination of the program. NTIA determined that the date for termination of the program was December 31, 2009, because the essential functions of the program had ceased by that date. Accordingly, by this notice NTIA announces that it will delete this system of records on February 8, 2012 to comply with the Disposition Authority.

Dated: February 3, 2012.

Jonathan R. Cantor,

Chief Privacy Officer, Department of Commerce.

[FR Doc. 2012–2900 Filed 2–7–12; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2011–0041]

Humanitarian Awards Pilot Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: Following on last year's Request for Comments, the United States Patent and Trademark Office (USPTO) is launching a twelve-month pilot program to incentivize the distribution of patented technologies to address humanitarian needs. The pilot program will be run as an awards competition. Participating patent applicants, patent owners, and licensees will submit program applications describing what actions they have taken with their patented technology to address humanitarian needs among an impoverished population or further research by others on humanitarian technologies. Applications will be considered in four categories: Medical Technology, Food & Nutrition, Clean Technology, and Information Technology. Independent judges will review the program applications, and a selection committee will recommend awardees based on these reviews. Awardees will receive a certificate redeemable to accelerate select matters before the USPTO and public recognition for their efforts, including an award ceremony at the USPTO. The certificate can be redeemed to accelerate one of the following matters: an *ex parte* reexamination proceeding, including one appeal to the Board of Patent Appeals and Interferences (BPAI) from that proceeding; a patent application, including one appeal to the BPAI from that application; or an appeal to the BPAI of a claim twice rejected in a patent application or reissue application or finally rejected in an *ex parte* reexamination, without accelerating the underlying matter which generated the appeal. *Inter partes* reexaminations and interference proceedings are not eligible for acceleration, nor are the forthcoming post grant reviews, *inter partes* reviews, derivation proceedings, or supplemental examinations. Certificates awarded in the pilot are not transferable to other parties.

DATES: Applications will be accepted from March 1, 2012, through August 31, 2012.

FOR FURTHER INFORMATION CONTACT: For questions about competition procedures, contact the Office of Policy and External Affairs, by telephone at (571) 272–9300; or by facsimile transmission to (571) 273–0123; or by mail addressed to: Humanitarian Program, Office of Policy and External Affairs, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

For questions about certificates, acceleration, or other matters, contact Pinchus Laufer, Office of Patent Legal Administration, by telephone at (571) 272–7726; or by facsimile transmission to (571) 273–7726; or by mail addressed to: Pinchus Laufer, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: In September 2010, the USPTO requested comments from the public on proposals to incentivize the development and distribution of technologies that address humanitarian needs. *See Request for Comments on Incentivizing Humanitarian Technologies and Licensing Through the Intellectual Property System*, 75 FR 57261 (September 20, 2010), 1359 *Off. Gaz. Pat. Office* 121 (October 12, 2010). Based on feedback received, the USPTO is piloting an award competition recognizing humanitarian uses of patented and patent-pending technology. The results of this pilot will be reviewed to determine whether to extend the program.

Application Process

To enter the competition, applicants will submit program applications describing how their actions satisfy the competition criteria given below. Program applications are not patent applications but separate documents created for this pilot program. The term "application" throughout this notice shall mean program application rather than patent application unless otherwise noted. Likewise, "applicant" shall mean program applicant rather than patent applicant unless otherwise noted.

Program applications will be accepted for a period of six months beginning March 1, 2012. Up to 1,000 applications will be accepted under this pilot—if that limit is reached before August 31, 2012, the application period will be closed. Applications must be submitted on-line using the Web site at *http://patentsforhumanity.challenge.gov*. Submissions will be available on the public Web site after being screened for inappropriate material. Submissions containing inappropriate material will not be considered.

To ensure consistent and timely evaluation, applications will consist of a core section and supplements. Application forms will be available on the Web site. The core section will address how the applicant meets the defined competition criteria within a strict five-page limit. Applications exceeding this limit may be removed from consideration. Applicants may supplement the core section with any supporting material they wish to provide, such as third party statements on the merits of their application. Judges will review the core section of every eligible application they receive. Judges may review any, all, or none of each application's supplementary material at their discretion.

After the application submission period ends, judges will review the applications and a selection committee composed of representatives from other Federal agencies and laboratories will compose a list of up to 50 recommended recipients based on the judges' reviews. The selection committee will send the recommendation list to the USPTO, with the goal of completing the recommendation process within 90 days of the close of the application period. The committee will endeavor to recommend a minimum of five awardees in each of the four categories (Medical Technology, Food & Nutrition, Clean Technology, and Information Technology), with additional awardees recommended from any category at the selection committee's discretion. The

USPTO will notify the awardees and schedule a public awards ceremony. The actual number of awards given may vary depending on how many applications the judges recognize as deserving and how many awardees the selection committee recommends based on the competition criteria. All awards are subject to the approval of the Director of the USPTO.

This program involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this program have been reviewed and approved by OMB under 5 CFR 1320.13.

Judging Process

Applications will be reviewed by judges external to the USPTO. The qualifications for judges are described below. Each judge will review a set of applications based on the judging criteria and selection factors below, and then submit their reviews for the selection committee to consider.

Each application will be reviewed by three judges. To ensure fair, open, and impartial evaluations by the judges, judges will perform their reviews independently and the reviews will not be released to the public. After awards have been made, applicants may receive a copy of the reviews for their program application with the judges' names redacted by request to the USPTO. Reviews will only be sent to the address on file with the application.

The selection committee will recommend a list of up to 50 awardees based on the judges' reviews. For each recommended recipient on the list, the committee will provide an explanation of the reasons for recommendation. The final list will be sent to the USPTO with a time goal of 90 days from the application period closing. The USPTO will notify the winners and schedule a public awards ceremony.

All recommendations by the judges and selection committee are subject to the approval of the Director of the USPTO. Outcomes may not be challenged for relief before the USPTO.

Eligibility

The competition is open to any patent owners or patent licensees, including inventors who have not assigned their ownership rights to others, assignees, and exclusive or non-exclusive licensees. Each program application must involve technology that is the subject of one or more claims in an issued U.S. utility patent or a pending U.S. utility patent application owned or licensed by the applicant. If using a patent application as the basis for the program application, applicants must show that a Notice of Allowance for one or more claims from that patent application has been issued before any certificate will be awarded. Inventions from any field of technology applied to one of the four competition categories may participate.

Applicants may team together to submit a single joint application covering the actions of multiple parties. Each applicant in a joint application must meet the eligibility criteria above. Only one certificate will be issued to a team of joint applicants selected for an award, and an award certificate can be redeemed only in one matter (*e.g.*, a single appeal to the BPAI or a single reexamination proceeding). Joint applications must designate a single applicant entity as the recipient for any acceleration certificate awarded on their application. This designation may be changed at any time before a certificate is issued by written consent of all parties to the application.

Licensees and patent owners may team together to submit a joint program application where both parties contributed to the humanitarian endeavor. Alternatively, licensees may apply on their own based on actions they have performed. For applications which do not list a patent owner as a joint applicant, licensees must notify the patent owners and provide them a copy of the application at least 14 days before submitting it. Patent owners may submit a two-page written statement regarding such an application with any additional information they wish the judges to consider, which will be appended to the core section of the application. The lack of such a statement will not prejudice an application.

There is no preset limit on the number of awards that can be given per technology or per program applicant. Applicants can determine how many program applications to submit and which actions and technologies to cover in each application. However, the diversity requirement may discourage granting multiple awards to the same technology or applicant in a single award cycle. See *Selection Factors*, below, for more information.

Competition Criteria

Program applications must demonstrate how the applicants' actions have increased the use of patented technology to address humanitarian issues. For this competition, a *humanitarian issue* is one significantly affecting the public health or quality of life of an impoverished population. Whether an issue qualifies as humanitarian under this definition will be determined largely by the judges and selection committee.

Applications will be assigned to one of four categories: Medical Technology, Food & Nutrition, Clean Technology, and Information Technology. The Medical Technology category encompasses any medical technology, including medicines and vaccines, diagnostic equipment, or assistive devices. Food & Nutrition includes not only agricultural technology like drought-resistant crops, more nutritious crop strains, and farming equipment, but also technologies which improve food storage, preservation, or preparation. Clean Technology applies to technologies that improve public health by removing or reducing harmful contaminants in the environment, such as water filters, sterilization devices, and cleaner sources of energy for light, heat, cooking, or other basic needs. Information Technology encompasses both physical devices and software which markedly improve the lives of the poor, such as portable computers, cell phones, or Internet access devices being used to foster literacy, education, or other knowledge which improves living standards.

Applicants will designate the category in which they wish their application to be considered. The Office may reassign applications to another category at their discretion. For evaluation purposes, applications in each category will be compared to other applications in that same category.

Within the selected category, each application must address one set of judging criteria: either (1) humanitarian use, or (2) humanitarian research. The *humanitarian use* criteria recognize applying eligible technologies to positively impact a humanitarian issue. Examples of technologies with potential humanitarian uses include treatments for disease, medical diagnostics, water purification, more nutritious or higher-yield crops, pollution reduction, and education or literacy devices, among others. The focus is on demonstrated real-world improvements in the lives of the poor. Applicants must demonstrate:

(i) Subject Matter—the applicants' technology; which is claimed in a U.S. utility patent in force at the time or a pending U.S. utility patent application, effectively addresses a recognized humanitarian issue;

(ii) Target Population—the actions described in the program application target an impoverished population affected by the humanitarian issue; and

(iii) Demonstrated Impact—the applicants' actions have significantly increased application of the technology that benefits the impoverished population by addressing the humanitarian issue.

Alternatively, the *humanitarian research* criteria recognize making patented technologies available to others for conducting research on a humanitarian issue. Examples of technologies with potential humanitarian research benefits include patented molecules, drug discovery tools, gene sequencing or splicing devices, special-purpose seed strains, or other patented research material. The focus is on contributing needed tools to areas of humanitarian research lacking commercial application. Applicants under this criteria must demonstrate:

(i) Research Impact—the applicants' technology, that is claimed in a U.S. utility patent in force at the time or a pending U.S. utility patent application, has made a significant contribution to substantial research conducted by others which clearly targets a humanitarian issue;

(ii) Neglected Field—the research by others occurs in an area lacking significant commercial application; and

(iii) Contribution—the applicants took significant action to make the technology available to the other researchers.

Selection Factors

In addition to the competition criteria, a number of selection factors will be considered in choosing recipients. Unlike judging criteria, selection factors are not items that applicants address in their applications. Rather, they are guiding principles for administering the competition.

Three neutrality principles apply. The program will be technology neutral, meaning applications may be drawn to any field of technology with patentable subject matter applied to one of the four competition categories. It will be geographically neutral, meaning the impoverished population benefiting from the humanitarian activities can be situated anywhere in the world. Finally, evaluations will be financially neutral, meaning the underlying financial model for the applicant's actions (for-profit or otherwise) is not considered. The focus is only on the ultimate humanitarian outcome.

Diversity of awarded technologies will also factor into selections. Part of the program's mission is to showcase the numerous ways in which the patent community contributes to humanitarian efforts. Just as no single technology addresses every humanitarian issue, neither does any one contribution model work in every situation. Selected awardees should therefore encompass a plethora of technologies, types and sizes of entities, and models of contributions.

Selection of Judges

Judges will serve as unpaid volunteers. Judges will be selected by the USPTO with the following considerations in mind:

(1) Recognized subject matter expertise in science, engineering, economics, business, public policy, health, law, or a related field.

(2) Demonstrated understanding of a broad range of mechanisms for developing and commercializing technology.

(3) Experience participating in review processes such as grant applications or academic journal submissions.

(4) Knowledge of humanitarian issues, especially the practical challenges presented with delivering goods and services to areas with inadequate transportation, electricity, security, government, or other infrastructure.

Additionally, judges will be chosen to minimize conflicts of interest. A conflict of interest occurs when a judge (a) has significant personal or financial interests in, or is an employee, officer, director, or agent of, any entity participating in the competition, or (b) has a significant familial or financial relationship with an individual who is participating. If a conflict of interest does arise, the judge must disclose the relationship to the USPTO and recuse himself or herself from evaluating the affected applications.

Where possible, judges will be assigned applications in categories that fit their relevant expertise.

Awards

Winners will receive recognition for their humanitarian efforts at a public awards ceremony with the Director of the USPTO. They will also receive an acceleration certificate which can be redeemed to accelerate one of the following matters: an *ex parte* reexamination proceeding, including one appeal to the BPAI from that proceeding; a patent application, including one appeal to the BPAI from that application; or an appeal to the BPAI of a claim twice rejected in a patent application or reissue application or finally rejected in an *ex parte* reexamination. Certificates awarded in the pilot are not transferable to other parties. When redeemed for a patent application or an *ex parte* reexamination, only the first appeal to the BPAI arising from that matter will be accelerated. Alternatively, the certificate may be used to accelerate an appeal to the BPAI of a final rejection in a patent application or reissue application without accelerating the underlying matter which generated the appeal. *Inter partes* reexaminations and interference proceedings are not eligible for acceleration, nor are the forthcoming post grant reviews, *inter partes* reviews, derivation proceedings, or supplemental examinations.

Each certificate may be redeemed only once and only on one matter. Certificates must be redeemed within 12 months of their date of issuance. Certificates not redeemed within 12 months of issuance expire and may not be redeemed. Holders of expiring certificates may petition that the USPTO extend the redemption period of their certificate for an additional 12 months. This petition incurs no fee. Petitioners should explain why the additional time is needed, such as not having a suitable matter or expecting a pending matter which is not yet ripe for certificate redemption. The decision whether to extend the redemption period of a certificate rests solely within the Director's discretion and cannot be challenged before the USPTO. Once a certificate has been redeemed, it is no longer eligible for extension.

Certificates may be redeemed only in matters where the certificate holder has an ownership interest in the U.S. patent or patent application at issue. This includes patents and patent applications contractually obligated for assignment to the certificate holder. The certificate may be applied to any such patent or patent application owned by the certificate holder, not just those which are the subject of a humanitarian program application.

For purposes of certificate redemption, in addition to the normal ownership rules, an entity with a controlling interest in the certificate holder is considered the same as the certificate holder. Likewise, an entity with a controlling interest in the owner of a patent or patent application to be accelerated is considered to have an ownership interest in the matter. For example, the parent of a wholly owned subsidiary may redeem the subsidiary's certificate to accelerate a reexamination of the parent's patent.

Certificate holders may not redeem a certificate to accelerate the matter of another patent owner or patent applicant.

Certificate Redemption Process

When redeeming a humanitarian certificate, the certificate holder must notify the USPTO with the certificate

number, the relevant application serial number or *ex parte* reexamination control number, and any other pertinent information, such as the appeal number if assigned. The USPTO will determine whether the certificate may be redeemed by checking that the certificate is valid, that the redeeming party is the certificate holder or its agent, that the matter is eligible for certificate acceleration, that the certificate holder has an ownership interest in the patent or patent application in the matter to be accelerated, and that the Office has sufficient resources to accelerate the matter without unduly impacting others. The USPTO will promptly notify the certificate holder whether the redemption is accepted. If the redemption fails for lack of ownership interest or insufficient Office resources, the certificate holder retains the certificate and may redeem it in another matter subject to the same constraints.

Under this pilot, there will be a limit of 15 certificate redemptions per fiscal year to accelerate *ex parte* reexaminations. This limit is due to the smaller overall number of reexamination proceedings handled by the Office compared to patent applications and appeals. Only the first 15 accepted redemption requests for an *ex parte* reexamination in a given fiscal year will receive accelerated processing. Any number of certificates up to the number issued may be redeemed to accelerate patent applications or appeals to the BPAI without accelerating the underlying matter which generated the appeal (including appeals from *ex parte* reexaminations).

Certificates redeemed for accelerated appeals to the BPAI will receive the following treatment. Accelerated appeals will be taken out of turn for assignment to a panel. Other processing in the matter will proceed normally. The Office's goal in accelerated cases already docketed to the Board, *i.e.*, having an appeal number, is to proceed from voucher redemption to decision in under 6 months if no oral arguments are heard in the case, or within 3 months of the date of an oral argument. For vouchers redeemed in appeals not already docketed at the Board, the goal is to reach decision in under 6 months from the date of the appeal number assignment if no oral arguments are heard in the case, or within 3 months of the date of an oral argument. For the fourth quarter of 2011, the average pendency from appeal number assignment to decision was 17 months, out of an overall pendency from Notice of Appeal to decision of 33 months. However, these numbers are expected to rise in coming quarters as there has been a sharp increase in appeal requests in recent months. Pendency also varies significantly by technology area.

Certificates redeemed in *ex parte* reexamination proceedings will receive the following treatment. If redeemed with a request for reexamination, the request will be decided with a goal of 2 months rather than the 3 months provided by statute. Certificate redemption at the filing of a reexamination request will be treated as a waiver by the patent owner of the right to make a Patent Owner Statement under 37 CFR 1.530 after grant of proceeding. If the statement is waived and the request granted, a first Office action on the merits will accompany the order granting reexamination. If the reexamination request is denied, the certificate is not considered redeemed and may be applied to another matter. Patent owners may preserve the right to file a Patent Owner Statement by redeeming the certificate during the statutory window for filing the Patent Owner's Statement after the reexamination proceeding has been granted. Subsequent Office actions in accelerated reexaminations will be taken out of turn as the next item to be worked on from the reexamination specialist's docket. Petitions filed in the matter will be decided in time consistent with the accelerated proceeding. An appeal to the BPAI of a final rejection in an accelerated reexamination will be taken out of turn for assignment to a Board panel. Any resulting Notice of Intent to Issue Ex Parte Reexamination Certificate (NIRC) will receive expedited processing to the extent possible. Accelerated *ex parte* reexaminations will not normally be merged with other co-pending proceedings, including *ex parte* reexaminations, *inter partes* reexaminations, and reissue proceedings. Where required by statute, an accelerated matter may be terminated by a decision issued in a post grant review or *inter partes* review proceeding.

The USPTO's goal in accelerated reexaminations will be under 6 months of processing time by the USPTO from the certificate redemption to final disposition, excluding time taken by the applicant for responses and any time on appeal. For the quarter ending December 31, 2011, the average pendency from filing a request for *ex parte* reexamination to an NIRC was 18.7 months, including applicant time.

Humanitarian certificates redeemed to accelerate examination of a patent application will receive the following treatment. Patent applicants must present their certificate to receive prioritized examination. If any appeal to the BPAI arises from the examination accelerated with this certificate, the first appeal will also be accelerated according to the procedures for accelerated appeals to the BPAI described herein. The Office's goal in examinations accelerated by certificate will be a final disposition within 12 months of accelerated status being granted, not including the time for any appeals to the BPAI.

Acceleration Requirements

In order to receive acceleration, the patent owner or patent applicant must agree to the following conditions. Accelerated patent applications may contain no more than four independent claims and 30 total claims. A humanitarian certificate can be redeemed in a patent or reissue application appeal to the BPAI at any time after a docketing notice has issued and before the matter is assigned to a panel. A certificate can only be redeemed for reexamination acceleration at the following points: with the request for reexamination; during the period for patent owner comment after grant of proceeding; or when a final rejection is appealed to the BPAI. Certificates will not be accepted for reexamination proceedings at other times. No more than three new independent claims and twenty total new claims may be added during an accelerated reexamination. New claims are those beyond the number contained in the patent at the time of the reexamination request. Claims may be added without triggering this limit by canceling an equal number of existing claims. All submissions in accelerated examinations must be filed electronically. Petitions filed in the matter must be filed in good faith. Revival and Request for Continued Reexamination petitions may not be filed. Failure by the applicant to abide by these conditions may result in the acceleration being revoked without return of the certificate and the matter reverting to normal processing.

Acceleration Recommendations

To receive the greatest benefit from acceleration in an *ex parte* reexamination proceeding, the applicant is requested to do the following. The Patent Owner's Statement will be considered to be waived when a certificate is filed with a request for reexamination. If the patent owner desires to reserve the right to make a statement, however, the certificate should be filed instead during the statutory window for filing the Patent Owner's Statement after the

reexamination proceeding has been granted. Acceleration will proceed from that point forward. All submissions in the accelerated matter should be filed electronically, except in accelerated examinations where submissions must be filed electronically. Conducting more than one examiner interview during prosecution should be avoided. Responses to all Office actions should be submitted within one month of receiving the Office action. Petitions should be avoided as much as possible. Failure to meet these conditions may result in longer processing times by the USPTO than the goals given above, but the matter will continue to receive accelerated processing as described herein to the extent possible.

In all instances, certificate redemption is subject to available USPTO resources at the Director's discretion. If accelerating the matter would negatively impact other applicants, the USPTO may decline to redeem the certificate at that time.

Dated: February 6, 2012.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2012–3040 Filed 2–7–12; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of Ballistic Survivability, Lethality and Vulnerability Analyses

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The US Army Research Laboratory's (ARL's), Survivability, Lethality Analysis Directorate (SLAD) is a leader in ballistic survivability, lethality and vulnerability (SLV) analyses. ARL/SLAD conducts SLV analyses, using the MUVES–S2 vulnerability model, to quantify system, subsystem and/or component level vulnerabilities of ground and air vehicles. These analyses are used to support production, design, trade and evaluation decisions. These capabilities are being made available to qualified interested parties. Collaborations will be governed by Cooperative Research and Development Agreements (15 U.S.C. 3710) and fee-based testing services will be governed by Test Service Agreements (10 U.S.C. 2539b).

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, telephone (410) 278–5028. For further technical information, please contact Denise Jordan, (410) 278–6322, *denise.a.jordan10.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army **Federal Register** *Liaison Officer.*

[FR Doc. 2012–2845 Filed 2–7–12; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Impact Statement for the Implementation of Energy, Water, and Solid Waste Sustainability Initiatives at Fort Bliss, TX

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: The Department of the Army advises interested parties of its intent to conduct public scoping under the National Environmental Policy Act to gather information to prepare an Environmental Impact Statement (EIS) that will evaluate the environmental impacts associated with the implementation of the Energy, Water, and Solid Waste Initiatives at Fort Bliss. These initiatives will work to enhance the energy and water security of Fort Bliss, Texas, which is operationally necessary, financially prudent and essential to the installation's mission. Elements of the implementation of the initiative would occur in Texas and New Mexico. By implementing these initiatives at Fort Bliss, the installation can help ensure that it has access to energy from renewable sources and ample water supplies now and into the future.

The decision maker at Fort Bliss will use the analysis in the EIS to determine which alternative(s) to implement. Actions to be evaluated in the EIS include: (1) The aggressive implementation of waste reduction, and energy and water conservation policies and practices; (2) the construction of a new pipeline to transport reclaimed water for best uses on Fort Bliss; (3) the construction of a Waste-to-Energy plant with adjacent landfill in the Southern Training Area of Fort Bliss, or on land to be exchanged with the Texas General Land Office; (4) the development and construction of dry-cooled concentrating solar thermal arrays in Fort Bliss Southern Training Area; (5) the development of geothermal resources on Fort Bliss in New Mexico for power generation and heating; (6) the development of existing wind energy resources on the eastern central and northern portions of Fort Bliss in New Mexico; and (7) the development of up to 20 MW of natural gas powered turbines as a complementary source of back-up power to renewable energy facilities to provide for Fort Bliss energy security. The EIS will also analyze a long-term program that considers the implementation of energy technologies on previously disturbed land, existing infrastructure, or other Army owned lands that would be compatible with Army mission and sustainability criteria. Alternatives include implementation of a combination of these projects and the no action alternative that will allow for a comparison of each of the possible actions to existing baseline environmental conditions. Other reasonable alternatives that are raised during the scoping process and capable of meeting the project purpose and need and criteria will be considered and included for evaluation in the EIS.

Environmental impacts associated with the implementation of the proposed action at Fort Bliss could include significant impacts to airspace, biological resources and migratory birds, soils and vegetation, noise impacts, increased traffic impacts, cultural resources, air quality, and surface and ground water.

ADDRESSES: Written comments should be forwarded to Dr. John Kipp, Fort Bliss Directorate of Public Works, Attention: IMBL–PWE (Kipp), Building 624 Pleasonton Road, Fort Bliss, Texas 79916; email: *john.m.kipp6.civ@mail.mil;* fax: (915) 568–3548.

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Jean Offutt, Fort Bliss Public Affairs Office, ATTN: IMBL–PA (Offutt), Building 15 Slater Road, Fort Bliss, Texas 79916; phone: (915) 568–4505; email: *thelma.g.offutt.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: The decisions to be made by the installation and cooperating agencies will be to determine whether and how best to implement energy, water, and solid waste technologies at Fort Bliss in both Texas and New Mexico. The EIS would assess the direct, indirect, and cumulative environmental impacts associated with various proposed alternatives. Alternatives evaluated in the EIS include different sitings and technologies that will be evaluated.

Cooperating Agencies: Some of the proposed projects considered in the alternatives being evaluated could occur on Bureau of Land Management (BLM) military-withdrawn lands in New Mexico. The BLM Las Cruces District Office and the US Air Force Holloman

Air Force Base will be invited as cooperating agencies for this proposal.

Scoping And Public Comments: Native Americans, federal, state, and local agencies, organizations, and the public are invited to be involved in the scoping process for the preparation of this EIS by participating in scoping meetings and/or submitting written comments. Written comments will be accepted within 30 days of publication of the NOI in the **Federal Register**. The scoping process will help identify possible alternatives, potential environmental impacts, and key issues of concern to be analyzed in the EIS. Scoping meetings will be held in El Paso, Texas, and Alamogordo and Las Cruces, New Mexico. Notification of the times and locations for the scoping meetings will be locally announced and published.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2012–2844 Filed 2–7–12; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Acquisition of Items for Which Federal Prison Industries Has a Significant Market Share

AGENCY: Department of Defense (DoD).

ACTION: Notice.

SUMMARY: DoD is issuing this notification to set forth an up-to-date list of product categories for which the Federal Prison Industries' share of the DoD market is greater than five percent.

DATES: *Effective Date:* February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Director, Defense and Acquisition Policy, Attn: Susan Pollack, 3060 Defense Pentagon, Washington, DC 20301–3060; telephone (703) 697–8336.

SUPPLEMENTARY INFORMATION:

I. Background

Section 827 of the National Defense Authorization Act of Fiscal Year 2008, Public Law 110–181, amended DoD's competition requirements for acquisition of products from Federal Prison Industries (FPI). On November 19, 2009, a final rule was published at 74 FR 59914, which amended the Defense Federal Acquisition Regulation Supplement (DFARS) at subpart 208.6 to implement section 827.

Among other things, section 827 required DoD to publish a list of product categories for which FPI's share of the DoD market was greater than five percent, based on the most recent fiscal year data available. Section 827 also provides for modification of the published list if DoD subsequently determines that new data require adding or omitting a product category from the list.

This notification provides a modified list of FPI product categories exceeding five percent of the DoD market, based on Fiscal Year 2011 data obtained from the Federal Procurement Data System. An identical list is also found in the Director, Defense Procurement and Acquisition Policy (DPAP) memorandum dated January 12, 2012. (The DPAP memorandum with the updated list of product categories for which FPI has a significant market share is posted at: *http://www.acq.osd.mil/dpap/policy/policyvault/USA007288–11–DPAP.pdf.)*

Accordingly, the updated product categories for which FPI's share of the DOD market is greater than five percent are:

- 3625 (Textile Industries Machinery);
- 3990 (Miscellaneous Materials Handling Equipment);
- 6020 (Fiber Optic Cable Assemblies and Harnesses);
- 7110 (Office Furniture);
- 7230 (Draperies, Awnings, and Shades);
- 8420 (Underwear and Nightwear, Men's); and
- 8465 (Individual Equipment).

Product categories on the updated list, and the products within each identified product category, must be procured using competitive or fair opportunity procedures in accordance with DFARS 208.602–70(c)(1). FPI must be included in the solicitation process and will be considered in accordance with the policy set forth in 8.602(a)(4)(ii) through (v) of the Federal Acquisition Regulation.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2012–2846 Filed 2–7–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–334]

Notice of Availability for Public Comment of Interconnection Facilities Studies Prepared for the Proposed Energia Sierra Juarez Transmission Project

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of availability for public comment of Interconnection Facilities Studies.

SUMMARY: Sempra Generation applied to the Department of Energy (DOE), on behalf of Energia Sierra Juarez U.S. Transmission, LLC, for a Presidential permit to construct, operate, maintain, and connect an electric transmission line across the U.S. border with Mexico, currently referred to as the Energia Sierra Juarez Transmission Project (ESJ Project). The ESJ Project would connect a wind energy project to be built in the vicinity of La Rumorosa, Baja California, Mexico, to San Diego Gas and Electric Company's (SDG&E) existing Southwest Powerlink (SWPL) 500-kV transmission line. DOE hereby announces the availability for public comment of the Interconnection Studies prepared for the ESJ Project.

DATES: Comments must be submitted on or before March 9, 2012.

ADDRESSES: Comments should be addressed to: Dr. Jerry Pell, Office of Electricity Delivery and Energy Reliability, OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0001. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Jerry.Pell@hq.doe.gov* (preferred), or by facsimile to (202) 318–7761.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry Pell (Program Office) at (202) 586–3362, or by email to *Jerry.Pell@hq.doe.gov*, or contact Brian Mills at 2(02) 586–8267, or by email to *Brian.Mills@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On December 20, 2007, Sempra Generation, on behalf of Energia Sierra Juarez U.S. Transmission, LLC, filed an application with the Office of Electricity Delivery and Energy Reliability of DOE for a Presidential permit. That application was originally noticed in the **Federal Register** for public comment on February 22, 2008 (73 FR 9782). The proposed transmission line project would connect up to 1,250 megawatts of electric power produced from wind turbines to be located in the vicinity of La Rumorosa, Baja California, Mexico, to SDG&E's existing Southwest

Powerlink (SWPL) 500-kV transmission line. This La Rumorosa Wind Energy Project is now referred to as the ESJ Wind Project. The proposed transmission facilities would be about two-thirds of a mile long inside the United States and two miles long inside Mexico, and consist of either a double-circuit 230-kilovolt (kV) or a single-circuit 500-kV electric transmission line that would cross the U.S.-Mexico international border in the vicinity of Jacumba, San Diego County, California. The proposed facilities would include a loop-in substation on the SWPL. The proposed loop-in substation, known as the East County Substation (ECO Sub), would be owned and operated by SDG&E. From the U.S.-Mexico border, the proposed transmission line would continue south approximately two additional miles to its origination point at a future 230/500-kV substation. The proposed transmission line located in Mexico and the 230/500-kV substation would be constructed, owned, operated, and maintained by a subsidiary of Sempra Energy Mexico.

The proposed transmission line would be used to transmit the entire electrical output of the first phase of the ESJ Wind Project from Mexico to the United States (about 130 MW). Energy would not be exported from the United States to Mexico, except for the small amount of electrical energy needed for wind turbine lubrication, hydraulic, and control systems when the wind generators are not operating. Any entity exporting such electrical energy from the United States would require an electricity export authorization issued by DOE under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

This Notice now announces the availability for public comment of the Interconnection Facilities Studies prepared as part of the application by Sempra Generation in conjunction with the California Independent System Operator that controls the grid connected to the project and SDG&E, which is the participating transmission owner. These technical transmission studies are available on DOE's project Web site at *http://esjprojecteis.org;* first go to the "Document Library" and then select the "Reliability Studies" section that has been added at the very top of that page.

All comments received in response to this Notice will be posted on DOE's project Web site and made a part of the record in this proceeding to be considered by DOE before making a final determination on the issuance of a Presidential permit for the ESJ Project.

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action is in the public interest. In making that determination, DOE considers the environmental impacts of the proposed project pursuant to the National Environmental Policy Act (NEPA) of 1969, determines the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and any other factors that DOE may also consider relevant to the public interest. Also, DOE must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Issued in Washington, DC, on February 2, 2012.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2012–2848 Filed 2–7–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD11–3–000]

Commission Information Collection Activities (FERC–725A); Comment Request

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC–725A, Mandatory Reliability Standards for the Bulk-Power System as contained in the Commission Order in Docket No. RD11–3–000, to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. In compliance with section 3506 of the Paperwork Reduction Act, the Commission previously solicited comments on the information collection requirements associated with a modification to a Mandatory Reliability Standard, in an order published in the **Federal Register** (76 FR 72197, 11/22/2011). FERC received no comments in response to that notice and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by March 9, 2012.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0244, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at (202) 395–4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. RD11–3–000, by either of the following methods:

- *eFiling at Commission's Web Site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725A, Mandatory Reliability Standards for the Bulk-Power System.

OMB Control No.: 1902–0244.

Type of Request: Three-year approval of the FERC–725A information collection requirements associated with FERC Docket No. RD11–3–000.

Abstract: This information collection relates to FERC-approved Reliability Standard FAC–013–2—Assessment of Transfer Capability for the Near-Term Transmission Planning Horizon. This modified Reliability Standard upgrades the existing planning requirements contained in FAC–013–1, and specifically requires planning coordinators to have a methodology for and to perform an annual assessment identifying potential future transmission system weaknesses and limiting facilities that could impact the bulk

electric system's ability to reliably transfer energy in the near-term transmission planning horizon. FAC–013–2 imposes relatively minimal new requirements beyond the existing requirements of FAC–013–1, primarily limited to specification of information that must be included in the documented methodology for identifying potential future transmission system weaknesses, the frequency of the assessment required, and the number of days allocated to make the assessment results available to other entities.

While the document retention requirements are being increased under the new Reliability Standard (from one to three years), the usual and customary practice currently is to retain documentation needed to demonstrate compliance for the period since the last audit, which is on a three year schedule. In addition, while planning coordinators must ensure that they perform an appropriate transfer capability assessment at least once per year, they are already required to establish transfer capabilities and disseminate information about those capabilities. Thus, there should be no increase in burden other than the one-time cost of (1) setting up a procedure to ensure that the assessment will be performed at least once per year, and (2) adjusting the methodology (if needed) to comply with the more specific requirements set out in the new Reliability Standard. The estimated burden of complying with these modified requirements is listed in the estimated annual burden section below.

Type of Respondents: Planning Coordinators[1]

Estimate of Annual Burden: FAC–013–2 will require applicable entities to review their transfer capability methodologies and document compliance with the Reliability Standard's requirements. Those planning coordinators that do not already comply with FAC–013–2's requirement for having a documented methodology for assessing transfer capability in the Near-Term Transmission Planning Horizon will be required to update their methodology documents and compliance protocols. In addition, planning coordinators must ensure that the required assessment will be performed at least once per calendar year. The estimated burden[2] is as follows:

Data collection	No. of respondents	No. of responses per respondent	Hours per respondent per response	Total annual hours
	(A)	(B)	(C)	(A × B × C)
Review and possible revision of methodology (one-time)	[3]20	1	80	1,600
Procedure to perform the Transfer Capability Assessment annually (one-time)	80	1	80	6,400
Total				8,000

The total estimated one-time cost resulting from this Reliability Standard is $960,000, representing 8,000 hours at $120 per hour.[4]

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost 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 collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2853 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

[1] Planning Coordinators are as identified in NERC's compliance registry. See *http://www.nerc.com/page.php?cid=3□25* for more information.

[2] Burden is defined as 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. For a further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[3] As of August 29, 2011, NERC listed 80 entities as registered planning authorities (synonymous with planning coordinator). The burden calculation is based on the expectation that 25% of all planning coordinators will have to update their methodology documents.

[4] The hourly reporting cost is based on the estimated cost of an engineer to implement the requirements of the rule.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–313]

Union Electric Company (Ameren); Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application to amend project boundary.

b. *Project No:* 459–313.

c. *Date Filed:* January 31, 2012.

d. *Applicant:* Union Electric Company (Ameren).

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* The Osage Hydroelectric Project is located on the Osage River in Benton, Camden, Miller, and Morgan counties, Missouri.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Jeff Green, Shoreline Supervisor, AmerenUE, P.O. Box 993, Lake Ozark, MO 65049, (573) 365–9214.

i. *FERC Contact:* Robert Fletcher at (202) 502–8901, or email: *robert.fletcher@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* March 5, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *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: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–459–313) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* As required by the November 10, 2011 Order on Rehearing and Amending Shoreline Management Plan, Ameren requests Commission approval to amend the project boundary to remove lands not needed for project purposes (which may include lands that contain residential and commercial structures and excess land acquired at the time of original construction of the project). Ameren proposes a comprehensive adjustment to the project boundary to the 662-foot elevation (Union Electric Datum) with additional adjustments for residential and commercial structures below elevation 662 where appropriate, and above elevation 662 where appropriate to encompass project facilities, project recreation sites, historic properties, wetlands, and Missouri State Parks.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site 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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1 (866) 208–3676 or email *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at Ameren's shoreline office. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2860 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13954–001]

Mahoning Hydropower, 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–13954–001.

c. *Date Filed:* December 7, 2011.

d. *Submitted By:* Mahoning Hydropower, LLC.

e. *Name of Project:* Berlin Lake Hydroelectric Project.

f. *Location:* On the Mahoning River in Mahoning County, Ohio. The project would occupy United States lands administered by the U.S. Army Corps of Engineers, Pittsburgh District.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Anthony Marra, Mahoning Hydropower, LLC, 11365 Normandy Lane, Chagrin Falls, OH 44023; (440) 804–6627; email—*amarrq@me.com*.

i. *FERC Contact:* Lee Emery at (202) 502–8379; or email at *lee.emery@ferc.gov*.

j. Mahoning Hydropower, LLC filed its request to use the Traditional Licensing Process on December 7, 2011. Mahoning Hydropower, LLC provided public notice of its request on December 9, 2011. In a letter dated February 2, 2012, the Director of the Division of Hydropower Licensing approved Mahoning Hydropower'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 under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the Ohio State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. 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.

m. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2856 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–21–000.
Applicants: ITC Midwest LLC.
Description: Filing of Clarification of ITC Midwest LLC.
Filed Date: 02/01/2012.
Accession Number: 20120201–5181.
Comment Date: 5 pm ET 2/13/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–4143–025; *ER11–46–002; ER10–2975–002; ER98–542–027.*
Applicants: American Electric Power Service Corporation, AEP Energy Partners, Inc., CSW Energy Services, Inc., Central and South West Services, Inc.
Description: Notice of change in status of American Electric Power Service Corporation, *et al.*
Filed Date: 1/31/12.
Accession Number: 20120131–5418.
Comments Due: 5 pm ET 2/21/12.

Docket Numbers: ER10–1827–001; *ER10–1825–001.*
Applicants: Cleco Power LLC, Cleco Evangeline LLC.
Description: Cleco Power LLC, et al submits a notice of non material change in status.
Filed Date: 1/31/12.
Accession Number: 20120131–5415.
Comments Due: 5 pm ET 2/21/12.

Docket Numbers: ER10–2034–002; *ER10–2032–003; ER10–2033–003; ER11–2064–002; ER11–2079–002; ER11–2069–001; ER11–2063–001; ER11–2066–002; ER10–1330–002; ER10–1329–002.*
Applicants: Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Duke Energy Indiana, Inc., North Allegheny Wind, LLC, Duke Energy Vermillion II, LLC, Duke Energy Hanging Rock II, LLC, Duke Energy Lee II, LLC, Duke Energy Fayette II, LLC,Duke Energy Washington II, LLC, St. Paul Cogeneration, LLC.
Description: Notice of change in status of Duke Energy Indiana, Inc., *et al.*
Filed Date: 2/1/12.
Accession Number: 20120201–5156.
Comments Due: 5 pm ET 2/22/12.

Docket Numbers: ER10–2502–001; *ER11–2474–003; ER10–2081–001; ER10–2472–001; ER10–2473–001; ER10–2298–002.*
Applicants: Black Hills/Colorado Electric Utility Co, LP, Black Hills Colorado IPP, LLC, Black Hills Power, Inc, Black Hills Wyoming, LLC, Cheyenne Light, Fuel and Power Company, Enserco Energy Inc.
Description: Notification of Change in Status of Black Hills/Colorado Electric Utility Company, LP, *et al.*
Filed Date: 1/31/12.
Accession Number: 20120131–5414.
Comments Due: 5 pm ET 2/21/12.

Docket Numbers: ER12–962–000.
Applicants: ISO New England Inc.
Description: Metadata Clean-up Filing to be effective 6/1/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5128.
Comments Due: 5 pm ET 2/22/12.

Docket Numbers: ER12–963–000.
Applicants: Southern California Edison Company.
Description: Amended SGIA WDAT SCE–SEPV 2 LLC SEPV 5 Project to be effective 4/2/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5131.
Comments Due: 5 pm ET 2/22/12.

Docket Numbers: ER12–964–000.
Applicants: CalPeak Power LLC.
Description: Notice of Non-Material Change in Status—February 1, 2012 to be effective 4/1/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5135.
Comments Due: 5 pm ET 2/22/12.

Docket Numbers: ER12–965–000.
Applicants: Starwood Power-Midway LLC.
Description: Notice of Non-Material Change in Status—February 1, 2012 to be effective 4/1/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5136.
Comments Due: 5 pm ET 2/22/12.

Docket Numbers: ER12–966–000.
Applicants: Pacific Gas and Electric Company.
Description: Notices of Termination of Service Agreement Nos. 37 and 85 under PG&E FERC Electric Tariff Volume No. 5 of Pacific Gas and Electric Company.
Filed Date: 1/31/12.
Accession Number: 20120131–5416.
Comments Due: 5 pm ET 2/21/12.

Docket Numbers: ER12–967–000.
Applicants: Florida Power Corporation.
Description: Revised Rate Schedule 212 of Florida Power Corporation to be effective 8/1/2011.
Filed Date: 2/1/12.
Accession Number: 20120201–5140.
Comments Due: 5 pm ET 2/22/12.

Docket Numbers: ER12–968–000.
Applicants: Puget Sound Energy, Inc.
Description: BPA NITSA for Sumas No. 626 to be effective 1/1/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5141.
Comments Due: 5 pm ET 2/22/12.

Docket Numbers: ER12–969–000.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits tariff filing per 35: Wholesale Requirements Rate Case Settlement to be effective 3/1/2011.
Filed Date: 2/1/12.
Accession Number: 20120201–5159.
Comments Due: 5 pm ET 2/22/12.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD12–1–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition of the North American Electric Reliability Corporation for Approval of Proposed Texas Reliability Entity Regional Reliability Standard IRO–006–TRE–1—IROL and SOL Mitigation on the ERCOT Interconnection.
Filed Date: 2/1/12.
Accession Number: 20120201–5127.
Comments Due: 5 pm ET 3/2/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 pm Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call 866 208–3676 (toll free). For TTY, call 202 502–8659.

Dated: February 01, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–2835 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–525–001.

Applicants: PJM Interconnection, LLC.
Description: Metadata Filing for the eTariff Record "OA ELRP Market Settlements" to be effective 2/1/2012.
Filed Date: 1/31/12.
Accession Number: 20120131–5315.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–593–001.
Applicants: ITC Midwest LLC.
Description: Amendment Filing to be effective 2/13/2012.
Filed Date: 1/31/12.
Accession Number: 20120131–5305.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–953–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: FCM Redesign Extension Filing to be effective 4/1/2012.
Filed Date: 1/31/12.
Accession Number: 20120131–5314.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–954–000.
Applicants: Calpine Mid Merit, LLC.
Description: Reactive Service Rate Filing to be effective 3/1/2012.
Filed Date: 1/31/12.
Accession Number: 20120131–5318.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–955–000.
Applicants: Pacific Gas and Electric Company.
Description: Energy 2001, Inc. SGIA to be effective 1/13/2012.
Filed Date: 1/31/12.
Accession Number: 20120131–5328.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–956–000.
Applicants: NSTAR Electric Company.
Description: MATEP (Colburn) Distribution Service Agreement to be effective 10/13/2010.
Filed Date: 1/31/12.
Accession Number: 20120131–5354.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–957–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Cancellation of Energy 2001, Inc WDT SAs and GIA to be effective 1/13/2012.
Filed Date: 1/31/12.
Accession Number: 20120131–5355.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–958–000.
Applicants: Puget Sound Energy, Inc.
Description: BPA NOA for Sumas No. 627 to be effective 1/1/2012.
Filed Date: 1/31/12.
Accession Number: 20120131–5356.
Comments Due: 5 pm ET 2/21/12.
Docket Numbers: ER12–959–000.
Applicants: Southwest Power Pool, Inc.
Description: Tri-County Electric Cooperative, Inc. Incorporate Formula Rate Template to be effective 4/1/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5081.
Comments Due: 5 pm ET 2/22/12.
Docket Numbers: ER12–960–000.
Applicants: Southern California Edison Company.
Description: Amended SGIA WDAT SCE–SEPV 8 LLC SEPV 8 Project to be effective 4/2/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5116.
Comments Due: 5 pm ET 2/22/12.
Docket Numbers: ER12–961–000.
Applicants: Southern California Edison Company.
Description: Amended SGIA WDAT SCE–SEPV 1 LLC SEPV 1 Project to be effective 4/2/2012.
Filed Date: 2/1/12.
Accession Number: 20120201–5117.
Comments Due: 5 pm ET 2/22/12.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA11–3–000.
Applicants: Virginia Electric and Power Company, Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, Inc., Dominion Energy Kewaunee, Inc., Dominion Energy Brayton Point, Inc., Dominion Energy Manchester Street, Inc., Dominion Energy New England, Inc., Dominion Energy Salem Harbor, LLC, Dominion Retail, Inc., Elwood Energy, LLC, Fairless Energy, LLC, NedPower Mt. Storm, LLC,Kincaid Generation, LLC, State Line Energy, LLC, Fowler Ridge Wind Farm, LLC.
Description: Amended Land Acquisition Report of Dominion Resource Services, Inc. for 3rd Quarter 2011 under LA11–3.
Filed Date: 1/11/12.
Accession Number: 20120111–5232.
Comments Due: 5 pm ET 2/22/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 pm Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call 866 208–3676 (toll free). For TTY, call 202 502–8659.

Dated: February 01, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–2836 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–22–000]

Zephyr Power Transmission, LLC; Pathfinder Power Transmission, LLC; Duke-American Transmission Company, LLC; Notice of Petition for Declaratory Order

Take notice that on January 30, 2012, pursuant to the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 381.302, Zephyr Power Transmission, LLC (Zephyr), Pathfinder Power Transmission, LLC (PPT), and Duke-American Transmission Company, LLC (D–ATC) filed a Petition for Declaratory Order, requesting that the Commission grant its request: (1) For Declaratory Order confirming Zephyr's right to continue to exercise its negotiated rate authority for Zephyr Power Transmission Project; (2) that Pathfinder Renewable Wind Energy, LLC (PWE) and Zephyr may enter into the New Precedent Agreement as an anchor customer agreement pursuant to an amendment to Zephyr's negotiated rate authority; (3) in the alternative, that PWE can continue to exercise its rights as a successful bidder under the open season process held by Zephyr in 2009 and pursuant to the New Precedent Agreement; and (4) for waivers of certain of the Commission's regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of 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.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 21, 2012.

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2857 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13272–002]

Alaska Village Electric Cooperative; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 3, 2012, Alaska Village Electric Cooperative (AVEC) 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 Old Harbor Hydroelectric Project (Old Harbor Project or project) to be located on the East Fork of Mountain Creek (a Lagoon Creek tributary), near the town of Old Harbor, Kodiak Island Borough, Alaska. The project crosses federal lands of the Kodiak National Wildlife Refuge. 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 run-of-river project would consist of an intake, penstock, powerhouse, tailrace and constructed channel, access road and trail, and transmission line. Power from this project would be used by the residents of the city of Old Harbor.

Intake

The intake would consist of a diversion/cut off weir with a height ranging from about 4 feet at the spillway to 6 feet elsewhere and having an overall length of approximately 100 feet. The creek bottom is close to bedrock so the base of the diversion wall would be a shallow grouted or concrete footing dug into the stream bed. The weir would not create any significant impoundment of water and would only be high enough to have an intake that pulls water from the midpoint of the water column. This would allow floatable objects and bottom moving sediments to remain in the creek. A water filtering system consisting of a trash rack, diversion gates, and secondary screens would be incorporated into the weir structure as a separate desanding box that would be partially exposed above grade. The project diversion and intake works would consist of concrete, or other suitable material, with an integral spillway. A below grade transition with an above ground air relief inlet pipe would convey water to a buried High Density Polyethylene Pipe (HDPE) pipeline.

Penstock

A 10,100-foot-long penstock consisting of an 18-inch-diameter HDPE pipe, a 20-inch-diameter HDPE pipe, and a 16-inch-diameter steel pipe would be installed. A total of 7,250 feet of HDPE would be installed from the intake and 2,850 feet of steel pipe would be installed near the powerhouse. The pipe would be buried 1 to 3 feet underground and follow the natural terrain as much as possible. The pipeline would be located such that bends would be gradual while minimizing the amount of excavation and fill needed.

Powerhouse

The powerhouse would consist of a 30-foot by 35-foot (approximate) by 16-foot-high metal building or similar structure. The building would house the turbines and associated equipment, switchgear, controls, and tools and would be placed on a fill pad. The power generation equipment would consist of two Pelton 262 kilowatt (kW) units with a 480-volt, 3-phase synchronous generator and switchgear for each unit. Each unit would have a hydraulic capacity of 5.9 cubic feet per second (cfs) for a total project peak flow rate of 11.8 cfs capable of producing 525 kW of power. A bypass flow system for maintaining environmental flows is not proposed at this time, since the source creek runs dry during certain times of the year.

Tailrace

A tailrace structure and constructed channel would convey the project flows approximately 700 feet from the powerhouse to the nearby lake, known in the city of Old Harbor as the Swimming Pond. A culvert would contain some of the tailrace near the powerhouse to allow for vehicle travel over the tailrace. The constructed channel would convey project flows 1,100 feet from the Swimming Pond to the headwaters of the Lagoon Creek tributary.

Access Road and Trail

An approximately 11,200-foot-long intake access trail would run between the intake and the powerhouse following the penstock route. The 12-foot-wide trail would be made of 1 to 2 feet of rock fill placed over a geo-textile filter fabric. Two gates would be placed along on the access trail to block the public from accessing the Kodiak National Wildlife Refuge on all terrain vehicles. One gate would be located at the powerhouse. Another gate would be placed where an existing trail connects to the new trail at about 7,000 feet northwest of the powerhouse. A new 6,800-foot-long by 24-foot-wide powerhouse access road would extend from powerhouse to the existing community drinking water tank access road. The road would be open to the public.

Transmission Line

A 6,800-foot-long (1.5-mile), 7.2-kV, 3-phase overhead power line would be installed from the powerhouse to the existing power distribution system in Old Harbor. The transmission line would follow the powerhouse access road and drinking water tank road alignment.

The estimated dependable capacity of the project is 140 kW. The peak installed capacity will primarily depend on economics and the projected increase in demand. AVEC has chosen to permit the project with a peak capacity of 525 kW.

Applicant Contact: Brent Petrie; Manager, Community Development and Key Accounts; Alaska Village Electric Cooperative; 4831 Eagle Street,

Anchorage, Alaska 99503–7497; (907) 565–5358 or email at *bpetrie@avec.org.*

FERC Contact: Carolyn Templeton; (202) 502–8785 or *carolyn.templeton@ferc.gov.*

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–13272) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2855 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13102–000]

Birch Power Company; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 1, 2011, Birch Power Company filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of a hydropower project located at the U.S. Army Corps of Engineers' (Corps) Demopolis Lock and Dam, located on the Tombigbee River in Marengo County, Alabama. 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 100-foot-wide, 175-foot-long forebay channel; (2) a powerhouse, located on the north end of the dam, containing two generating units with a total capacity of 42.0 megawatts; (3) a 1,750-foot-long, 140-foot-wide tailrace; (4) a 1.8-mile-long, 115.0 kilo-volt transmission line. The proposed project would have an average annual generation of 191.6 gigawatt-hours (GWh), and operate run-of-river utilizing surplus water from the Demopolis Lock & Dam, as directed by the Corps.

Applicant Contact: Mr. Ted Sorenson, Sorenson Engineering, 5203 South 11th East, Idaho Falls, ID 83404. (208) 522–8069.

FERC Contact: Michael Spencer, *michael.spencer@ferc.gov,* (202) 502–6093.

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–13102–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2854 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the Southwest Power Pool, Inc. (SPP): Strategic Planning Committee Task Force on Order No. 1000 Meeting, February 10, 2012, 9–3 p.m., Local Time.

The above-referenced meeting will be held at: AEP Offices, 1201 Elm Street, Dallas, Texas 72501.

The above-referenced meeting is open to stakeholders.

Further information may be found at *www.spp.org.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

Docket No. ER09–35–001, *Tallgrass Transmission, LLC*

Docket No. ER09–36–001, *Prairie Wind Transmission, LLC*

Docket No. ER09–36–002, *Prairie Wind Transmission, LLC*

Docket No. ER09–548–001, *ITC Great Plains, LLC*

Docket No. ER11–4105–000, *Southwest Power Pool, Inc.*

Docket No. EL11–34–001, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–3967–002, *Southwest Power Pool, Inc.*

Docket No. ER11–3967–003, *Southwest Power Pool, Inc.*

For more information, contact Luciano Lima, Office of Energy Market Regulation, Federal Energy Regulatory

Commission at (202) 502–6210 or *luciano.lima@ferc.gov.*

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2859 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–4628–000]

PJM Interconnection, L.L.C.; Supplemental Notice for Staff Technical Conference

Take notice that the staff technical conference in the above captioned proceeding, to be held on February 14, 2012, will include a listen-only call-in line for participants who are unable to attend in person. If you need a listen-only line, please email Sarah McKinley (*Sarah.McKinley@ferc.gov*) by 5 p.m. (EST) on Friday, February 10, with your name, email, and phone number, in order to receive the call-in information the day before the conference. Please use the following text for the subject line, "ER11–4628–000 listen-only line registration."

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

Parties will be provided an opportunity to file comments after the conference. The Commission will announce the comment period on or after the day of the conference.

Parties seeking additional information regarding this conference should contact Tristan Cohen at *Tristan.Cohen@ferc.gov* or (202) 502–6598.

Dated: February 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–2858 Filed 2–7–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID Number EPA–HQ–OECA–2012–0034; FRL–9629–1]

Agency Information Collection Activities: Request for Comments on One Proposed Information Collection Request (ICR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following one existing, approved, continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB) for the purpose of renewing the ICR. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described under **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be submitted on or before April 9, 2012.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier service. Follow the detailed instructions as provided under **SUPPLEMENTARY INFORMATION**, section A.

FOR FURTHER INFORMATION CONTACT: The contact individuals for each ICR are listed under **SUPPLEMENTARY INFORMATION**, section II.C.

SUPPLEMENTARY INFORMATION:

A. How can I access the docket and/or submit comments?

(1) Docket Access Instructions

EPA has established a public docket for the ICRs listed in the **SUPPLEMENTARY INFORMATION**, section II. B. The docket is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC), in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue 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 Enforcement and Compliance Docket and Information Center (ECDIC) docket is (202) 566–1752.

Use *http://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. When in the system, select "search," then key in the docket ID number identified in this document.

(2) Instructions for submitting comments:

Submit your comments by one of the following methods:

(a) *Electronic Submission:* Access *http://www.regulations.gov* and follow the on-line instructions for submitting comments.

(b) *Email: docket.oeca@epa.gov.*

(c) *Fax:* (202) 566–1511.

(d) *Mail:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail code: 2201T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

(e) *Hand Delivery:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Deliveries are only accepted during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Direct your comments to the specific docket listed in **SUPPLEMENTARY INFORMATION**, section II.B, and reference the OMB Control Number for the ICR. It is EPA policy 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 *www.regulations.gov* or email. 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 email comment directly to EPA without going through *www.regulations.gov,* your email 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 the EPA public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

B. What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it to:

(1) Evaluate whether the proposed collections of information are 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 estimates of the burdens of the proposed collections of information.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies, or other forms of information technology, e.g., permitting electronic submission of responses.

C. What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing 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.

II. ICR To Be Renewed

A. For One ICR

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICR listed in this notice. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the PRA.

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 to; 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 listed ICR addresses Clean Air Act information collection requirements in standards (*i.e.*, regulations) which have mandatory recordkeeping and reporting requirements. Records collected under the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years. In general, the required collections consist of emissions data and other information deemed not to be private.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the Agency displays a currently valid OMB control number. The OMB control numbers for the EPA regulations under Title 40 of the Code of Federal Regulations are published in the **Federal Register**, or on the related collection instrument or form. The display of OMB control numbers for certain EPA regulations is consolidated at 40 CFR part 9.

B. What information collection activity or ICR does this apply to?

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit one proposed, continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB):

(1) *Docket ID Number:* EPA–HQ–OECA–2012–0034.

Title: NESHAP for Nine Metal Fabrication and Finishing Source Categories (40 CFR part 63, subpart XXXXXX).

ICR Numbers: EPA ICR Number 2298.03, OMB Control Number 2060–0613.

ICR Status: This ICR is scheduled to expire on January 31, 2012.

C. Contact Individual for ICR

(1) NESHAP for Nine Metal Fabrication and Finishing Source Categories (40 CFR part 63, subpart XXXXXX); Learia Williams of the Office of Compliance (202) 564–4113 or via email to *williams.learia@epa.gov;* EPA ICR Number 2298.03, OMB Control Number 2060–0613; expiration date January 31, 2012.

D. Information for Individual ICRs

(1) NESHAP for Nine Metal Fabrication and Finishing Source Categories (40 CFR part 63, subpart XXXXXX), Docket ID Number: EPA–HQ–OECA–2012–0034, EPA ICR Number 2298.03, OMB Control Number 2060–0613, expiration date January 31, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of metal fabrication and finishing facilities.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart XXXXXX.

Owners or operators of the affected facilities must submit initial notification, performance tests, periodic reports, and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required annually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 11 hours per response.

Respondents/Affected Entities: Owners or operators of metal fabrication and finishing facilities.

Estimated Number of Respondents: 1,933.

Frequency of Response: Initially, and annually.

Estimated Total Annual Hour Burden: 20,566.

Estimated Total Annual Cost: $655,501, which includes $655,501 in labor costs, no capital/startup costs, and no operating and maintenance costs.

EPA will consider any comments received and may amend the above ICR, as appropriate. Then, the final ICR package will be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue one or more **Federal Register** notices 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 question about the above ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: January 25, 2012.

Lisa C. Lund,

Director, Office of Compliance.

[FR Doc. 2012–2881 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9628–9]

Mobile Sources Technical Review Subcommittee; Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its Mobile Sources Technical Review Subcommittee (MSTRS). Vacancies are anticipated to be filled by October 2012. Sources in addition to this **Federal Register** Notice may also be utilized in the solicitation of nominees.

Background: The MSTRS is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. The Mobile Sources Technical Review Subcommittee (MSTRS) provides the Clean Air Act Advisory Committee (CAAAC) with independent advice, counsel and recommendations on the scientific and technical aspects of programs related to mobile source air pollution and its control. Through its expert members from diverse stakeholder groups and from its various workgroups, the subcommittee reviews and addresses a wide range of developments, issues and research areas such as emissions modeling, emission standards and standard setting, air toxics, innovative and incentive-based transportation policies, onboard diagnostics, heavy-duty engines, diesel retrofit, fuel quality and greenhouse gases. The Subcommittee's Web site is at: *http://www.epa.gov/air/caaac/mobile_sources.html.*

Members are appointed by the EPA Administrator for two to three year terms with the possibility of reappointment to a second term. The MSTRS usually meets two times annually and the average workload for the members is approximately 5 to 10 hours per month. EPA may provide reimbursement for travel and other incidental expenses associated with official government business.

EPA is seeking nominations from representatives of nonfederal interests such as manufacturers of passenger cars, engines and trucks; emissions researchers, atmospheric science and air quality policy experts; state and local environmental agencies; environmental protection and conservation interests; and leaders of non-for-profit and community organizations. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

In selecting members, we will consider technical expertise, coverage of broad stakeholder perspectives, diversity and the needs of the subcommittee.

The following criteria will be used to evaluate nominees:

- The background and experiences that would help members contribute to the diversity of perspectives on the committee (e.g., geographic, economic, social, cultural, educational, and other considerations;
- Experience working with manufacturers of passenger cars, engines and trucks; engine and equipment manufacturing;
- Experience working with fuel or renewable fuel producers;
- Experience working with oil refiners; distributors and retailers of mobile source fuels;
- Experience working with clean energy producers;
- Experience working with agricultural producers (corn and other crop products); distillers, processors and shippers of biofuels;
- Experience working with emission control manufacturers; catalyst and filter manufacturers;
- Experience working for State and local environmental agencies; State Air Pollution Control Agencies;
- Experience working as an air quality emissions or transportation researcher;
- Experience working for environmental advocacy groups;
- Experience working for environmental and/or community groups;
- Experience working with supply chain logistics and goods movement;
- Experience in working at the national level on local governments issues;
- Demonstrated experience with environmental and sustainability issues;
- Executive management level experience with membership in broad-based networks;
- Excellent interpersonal, oral and written communication and consensus-building skills.
- Ability to volunteer time to attend meetings 2–3 times a year, participate in teleconference meetings, attend listening sessions with the Administrator or other senior-level officials, develop policy recommendations to the Administrator, and prepare reports and advice letters.

Nominations must include a resume and a short biography describing the professional and educational qualifications of the nominee, as well as the nominee's current business address, email address, and daytime telephone number. Interested candidates may self-nominate.

To help the Agency in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

Please be aware that EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed to two- or three-year terms.

ADDRESSES: Submit nominations to: Jennifer Krueger, Designated Federal Officer, Office of Transportation and Air Quality, U.S. Environmental Protection Agency (6405J), 1200 Pennsylvania Avenue NW., Washington, DC 20460. You may also email nominations with subject line MSTRSRESUME2011 to *krueger.jennifer@epa.gov.*

DATES: Nominations must be submitted no later than one month from publication.

FOR FURTHER INFORMATION CONTACT: Jennifer Krueger, Designated Federal Officer, U.S. EPA; telephone: (202) 343–9302; email: *krueger.jennifer@epa.gov.*

Dated: February 1, 2012.

Margo Tsirigotis Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. 2012–2878 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0254; FRL–9334–8]

Pesticide Product Registration Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application to register the pesticide product Contram ST–1 containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Karen Leavy, Antimicrobials Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–6237 email address: *leavy.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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 person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0254. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

II. Did EPA approve the application?

The Agency approved the application after considering all required data on risks associated with the proposed use of *N,N'*Methylenebismorpholine, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *N, N'*Methylenebismorpholine when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

III. Approved Application

EPA issued a notice, published in the **Federal Register** of June 10, 2009 (74 FR 27541) (FRL–8413–2), which announced that Lubrizol, 29400 Lakeland Boulevard, Wickliffe, Ohio 44092–2298, had submitted an application to register the pesticide product, Contram ST–1, as an antimicrobial preservative to inhibit the growth of bacteria and fungi in metalworking, cutting, cooling and lubricating concentrates. (EPA File Symbol 52484–G). This product was not previously registered.

The application was approved on November 2, 2011, as Contram ST–1 (EPA Registration Number (52484–3) as a preservative to inhibit the growth of bacteria and fungi in metalworking, cutting, cooling and lubricating concentrates.

List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: January 24, 2012.

Joan Harrigan-Ferrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 2012–2872 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9628–4]

Notice of a Project Waiver of the Buy American Requirement of the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Austin, TX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator of EPA Region 6 is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the City of Austin ("the City") for the purchase of ten (10) vertical linear motion mixers for the Clean Water State Revolving Fund (CWSRF) Hornsby Bend Biosolids Management Plant (BMP) Digester Improvement and Sustainability Project. The required vertical linear motion mixers are manufactured by foreign manufacturers and no United States manufacturer produces an alternative that meets the City's technical specifications. This is a project specific waiver and only applies to the use of the specified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the same product must apply for a separate waiver based on the specific project circumstances. The Regional Administrator is making this determination based on the review and recommendations of the EPA Region 6, Water Quality Protection Division. The City has provided sufficient documentation to support its request.

The Assistant Administrator of the EPA's Office of Administration and Resources Management has concurred

on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of the selected vertical linear motion mixers not manufactured in America, for the proposed project being implemented by the City.

DATES: *Effective Date:* January 12, 2012.

FOR FURTHER INFORMATION CONTACT: Nasim Jahan, Buy American Coordinator, (214) 665–7522, SRF & Projects Section, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue Dallas, Texas 75202–2733.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c) and 1605(b)(2), EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111–5, Buy American requirements, to the City for the acquisition of selected vertical linear motion mixers. The City has been unable to find American made vertical linear motion mixers to meet its specific wastewater requirements.

Section 1605 of ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that: (1) Applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The City has noted that out of the ten (10) vertical linear motion mixers, two 10 horse power (hp) mixers are required for the flow equalization tanks, four 20 hp mixers for the thickened sludge tanks, and four 15 hp mixers for the anaerobic digesters. The City specified the linear mixers because of their cam-scotch-yoke mechanism and superior energy efficiency. The linear mixers are a proprietary technology and are only manufactured by Enersave, a Canadian manufacturer. The City has provided information to the EPA demonstrating that there are no Vertical linear motion mixers manufactured in the United States in sufficient and reasonable quantity and of a satisfactory quality to meet the required technical specification.

Based on additional research conducted by EPA Region 6 there do not appear to be any American-made vertical linear motion mixers that would meet the City's technical specifications. EPA's national contractor prepared a technical assessment report based on the waiver request submittal, which confirmed the waiver applicant's claim that there are no American-made vertical linear motion mixers available for use in the proposed waste water treatment system.

EPA has also evaluated the City's request to determine if its submission is considered late or if it could be considered timely, as per the OMB regulation at 2 CFR 176.120. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as "late" if submitted after the contract date. However, EPA could also determine that a request be evaluated as timely, though made after the date that the contract was signed, if the need for a waiver was not reasonably foreseeable. If the need for a waiver is reasonably foreseeable, then EPA could still apply discretion in these late cases as per the OMB Guidance, which says "the award official *may* deny the request." For those waiver requests that do not have a reasonably unforeseeable basis for lateness, but for which the waiver basis is valid and there is no apparent gain by the ARRA recipient or loss on behalf of the government, then EPA will still consider granting a waiver.

In this case, the waiver request was submitted after the contract date because of a delay in the process of the LM™ Mixer technology being purchased by the City's supplier, Ovivo USA, LLC ("Ovivo"), f/k/a Eimco Water Technologies, from Enersave (the inventor), in order to obtain control of all technical drawings and manufacture the mixers in the United States. The vertical linear motion mixers have recently been patented by Enersave and Ovivo has purchased only the rights to use the technology in the municipal market in North America. Ovivo has been working with Enersave to allow the complete transfer of information to take place; however, the duration has taken longer than anticipated as the provided information has been found incomplete requiring detailed support and fabrication from the inventor. All linear motion mixers have been fabricated by the inventor (Enersave) to date, due to the detailed technical drawings not being in the control of Ovivo. The initial schedule of events planned to allow Ovivo to do the fabrication for the Hornsby Bend mixers in the United States, however, the delay in getting the necessary information prevented this from occurring. When Ovivo found that the schedule would not allow fabrication to occur in the United States the waiver was requested. In light of the unexpected delay in the purchase of the LM™ Mixer technology, EPA believes that the need for a waiver was not reasonably forseeable and thus will treat the City's waiver request as if timely submitted.

The April 28, 2009, EPA HQ Memorandum, Implementation of Buy American provisions of Public Law 111–5, the "American Recovery and Reinvestment Act of 2009," defines reasonably available quantity as "the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design." The City has incorporated specific technical design requirements for installation of vertical linear motion mixers at its wastewater treatment plant.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring utilities, such as the City, to revise their standards and specifications, institute a new bidding process, and potentially choose a more costly, less efficient project. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

The Region 6 Water Quality Protection Division has reviewed this waiver request, and has determined that the supporting documentation provided by the City is sufficient to meet the criteria listed under ARRA, Section 1605(b), Office of Management and Budget (OMB) regulations at 2 CFR 176.60—176.170, and in the April 28, 2009, memorandum, "Implementation of Buy American provisions of Public Law 111–5, the American Recovery and Reinvestment Act of 2009." The basis for this project waiver is the authorization provided in ARRA, Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the City's

technical specifications, a waiver from the Buy American requirement is justified.

EPA headquarters' March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular goods required for this project, and that these manufactured goods are not available from a producer in the United States, the City is hereby granted a waiver from the Buy American requirements of ARRA, Section 1605(a) of Public Law 111–5 for the purchase of the selected 10 vertical linear motion mixers, using ARRA funds, as specified in the City's request. This supplementary information constitutes the detailed written justification required by ARRA, Section 1605(c), for waivers "based on a finding under subsection (b)."

Authority: Public Law 111–5. section 1605.

Issued on: Dated: January 12, 2012.

Al Armendariz,

Regional Administrator, U.S. Environmental Protection Agency, Region 6.

[FR Doc. 2012–2904 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2011–0553; FRL–9334–1]

Notice of Receipt of Requests for Amendments To Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendments by registrants to delete uses in certain pesticide registrations. Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**.

DATES: The deletions are effective August 6, 2012, unless the Agency receives a written withdrawal request on or before August 6, 2012. The Agency will consider a withdrawal request postmarked no later than August 6, 2012.

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant on or before August 6, 2012.

ADDRESSES: Submit your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2011–0553, by one of the following methods:

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although, this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2011–0553. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. What action is the Agency taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations. These registrations are listed in Table 1 of this unit by registration number, product name, active ingredient, and specific uses deleted:

TABLE 1—REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Registration No.	Product name	Active ingredient	Delete from label
264–437	Buctril Herbicide	Bromoxynil	BXN Cotton.
264–540	Buctril Herbicide	Bromoxynil	BXN Cotton.

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before August 6, 2012 to discuss withdrawal of the application for amendment. This 180-day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

Table 2 of this unit includes the name and address of record for the registrant of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company number	Company name and address
264	Bayer CropScience, P.O. Box 12014, 2. T.W. Alexander Drive, Research Triangle Park, NC 27709.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit the withdrawal in writing to Christopher Green using the methods in **ADDRESSES**. The Agency will consider written withdrawal requests postmarked no later than August 6, 2012.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 24, 2012.

Michael Hardy,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2012–2431 Filed 2–7–12; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Public Availability of Equal Employment Opportunity Commission (EEOC) FY 2011 Service Contract Inventory

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of public availability of FY 2011 Service Contract inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), Equal Employment Opportunity Commission is publishing this notice to advise the public of the availability of the FY 2011 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf*. The Equal Employment Opportunity Commission has posted its inventory and a summary of the inventory on the EEOC homepage at the following link: *http://www.eeoc.gov/eeoc/doingbusiness/index.cfm*.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Doreen Starkes in the Acquisition Services Division at (202) 663–4240 or *DOREEN.STARKES@EEOC.GOV*.

Dated: February 2, 2012.

Patrick R. Mealy,

Director, Acquisition Services Division.

[FR Doc. 2012–2791 Filed 2–7–12; 8:45 am]

BILLING CODE 6570–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application for a $1.74 billion loan to support the export of approximately $1.5 billion worth of mining, port and rail equipment to Australia. The U.S. exports will enable the Australian mining company to increase production by about 100 million metric tons of iron ore per year during the 8.5-year repayment term of the financing. Available information indicates that all of the additional Australian iron ore production will be sold in China, Japan and Korea. Interested parties may submit comments on this transaction by email to economic.impact@exim.gov or by mail to 811 Vermont Avenue NW., Room 1051, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

David M. Sena,

Vice President, Treasurer and Chief Financial Officer (acting).

[FR Doc. 2012–2837 Filed 2–7–12; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov*.

ABBA Trans, LLC (NVO & OFF), 750 Arthur Avenue, Elk Grove Village, IL 60007.

Officer: Jane Lee, Member (Qualifying Individual).

Application Type: New NVO & OFF License.

Carlos B. Sanchez Renner, dba New Way Shipping (NVO), Lerida 319 URB. Valencia, Rio Piedras, PR 00923.

Officer: Carlos G. Sanchez Renner, Sole Proprietor (Qualifying Individual)..
Application Type: New NVO License.
Discover Freight Forwarder Corporation (NVO & OFF), 290 Ferry Street, A5, Newark, NJ 07105.
Officers: Sandra P. Guevara, President/Treasurer (Qualifying Individual), Felix A. Alegria, Secretary.
Application Type: License Transfer/Add OFF Service.
Globe Express Services, Ltd. dba Dolphin Line dba Globe, Express Services (Overseas Group) (NVO & OFF), 8025 Arrowridge Blvd., Charlotte, NC 28273.
Officers: Jack (John) LaVee, Vice President Operations (Qualifying Individual), Ziad R. Korban, Chairman/CEO.
Application Type: Trade Name Change.
Graylion Logistics, LLC (NVO & OFF), 9485 Regency Square Blvd., Ste. 415, Jacksonville, FL 32225.
Officers: Bernard S. Sain, Stockholder/Director (Qualifying Individual), Glenn R. Patch, Stockholder/Director.
Application Type: License Transfer.
Intral Worldwide LLC (NVO & OFF), 88 Black Falcon Avenue, Suite 202, Boston, MA 02210.
Officer: Scott Barney, Manager (Qualifying Individual).
Application Type: New NVO & OFF License.
Key International Group, Inc. (NVO), 110 Pine Avenue, Suite 1050, Long Beach, CA 90802.
Officers: Michael Boldt, Vice President of Operations (Qualifying Individual), Hernan Venegas, President.
Application Type: QI Change.
LF Freight (USA) LLC (NVO & OFF), 230–59 International Airport Center Blvd., Suite 270, Jamaica, NY 11413.
Officers: Scott R. Ornstein, Vice President (Qualifying Individual), Richard N. Darling, President/Chief Executive.
Application Type: QI Change.
Limitless Transportation Services Inc. (NVO & OFF), 1075 Gills Drive, #310, Orlando, FL 32837.
Officer: Cheryl A. Stockstad, President/Secretary (Qualifying Individual).
Application Type: License Transfer.
Linear Shipping, Inc. (NVO & OFF), 5919 Ridgeway Drive, Grand Prairie, TX 75052.
Officer: Syed S. Rabi-Hassan, President/Secretary/Treasurer (Qualifying Individual).
Application Type: New NVO & OFF License.
Marsh & Associates Signing Services, LLC (NVO), 621 Beverly-Rancocas Road, PMB144, Willingboro, NJ 08046.
Officer: Cheryl Marsh, Chief Executive Member (Qualifying Individual).
Application Type: New NVO License.
Safe Cargo Forwarders, Inc. (OFF), 8555 NW 29th Street, Miami, FL 33122.
Officers: Judith Gil, President/Secretary (Qualifying Individual), Cristina Gil Vargas, Vice President.
Application Type: QI Change.

Dated: February 3, 2012.

Karen V. Gregory,

Secretary.

[FR Doc. 2012–2918 Filed 2–7–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 23, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Banner Bancorp, LTD, Birnamwood, Wisconsin,* to continue to engage in extending credit and servicing loans, pursuant to section 225.28 (b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System.

Dated: February 3, 2012.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2012–2847 Filed 2–7–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From Nuclear Metals, Inc., West Concord, MA, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: NIOSH gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from Nuclear Metals, Inc., West Concord, Massachusetts, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Nuclear Metals, Inc.

Location: West Concord, Massachusetts.

Job Titles and/or Job Duties: All employees.

Period of Employment: January 1, 1958 through December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone (877) 222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV*.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–2916 Filed 2–7–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: DHHS/ACF/OPRE Head Start Classroom-based Approaches and Resources for Emotion and Social skill promotion (CARES) project: Impact and Implementation Studies—Extension.

OMB No.: 0970–0364.

Description: The Head Start Classroom-based Approaches and Resources for Emotion and Social skill promotion (CARES) project is evaluating social emotional program enhancements within Head Start settings serving three- and four-year old children. This project focuses on identifying the central features of effective programs to provide the information federal policy makers and Head Start providers will need if they are to increase Head Start's capacity to improve the social and emotional skills and school readiness of preschool age children. The project is sponsored by the Office of Planning, Research, and Evaluation (OPRE) of the Administration for Children and Families (ACF). The Head Start CARES project uses a group-based randomized design to test the effects of three different evidence-based programs designed to improve the social and emotional development of children in Head Start classrooms.

Data to assess impacts of the program models in preschool was collected through surveys with teachers and parents, as well as direct child assessments. Data to assess implementation of the program models in preschool was collected through surveys and interviews with teachers, local coaches, trainers and center staff. Data collection for both the impact and implementation studies occurred during the Head Start Year. The study sample involved 17 Head Start grantees/delegate agencies, 104 centers, 307 classrooms, 1,042 selected 3-year old children and 2,885 selected 4-year old children.

The purpose of this request is to obtain an extension to finish impact data collection in the 2012 Follow-up Year (*e.g.*, Kindergarten for the 4-year olds). This data to assess impacts of the program models in the kindergarten year will be collected through teacher reports (surveys) and parent surveys.

Respondents: The respondents for the activities under the extension request for Follow-Up year data collection will be parents of children and kindergarten teachers of children in the study.

The annual burden estimates for both surveys covered by the extension are detailed below.

ANNUAL BURDEN ESTIMATES—EXTENSION

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Estimated annual burden hours
Teacher Report on Individual Children	962	1	0.33	317.5
Follow-up Parent Survey	962	1	0.33	317.5

Estimated Total Annual Burden Hours: 635.0.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 1, 2012.

Steven M. Hanmer,

OPRE Reports Clearance Officer.

[FR Doc. 2012–2738 Filed 2–7–12; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Tribal TANF Data Report, TANF Annual Report, and Reasonable Cause/Corrective Action Documentation Process- Final.

OMB No.: 0970–0215.

Description

42 U.S.C. 612 (Section 412 of the Social Security Act as amended by Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), mandates that federally recognized Indian Tribes with an approved Tribal TANF program collect and submit to the Secretary of the Department of Health and Human Services data on the recipients served by the Tribes' programs. This information includes both aggregated and disaggregated data on case characteristics and individual characteristics. In addition, Tribes that are subject to a penalty are allowed to provide reasonable cause justifications as to why a penalty should not be imposed or may develop and implement corrective compliance procedures to eliminate the source of the penalty. Finally, there is an annual report, which requires the Tribes to describe program characteristics. All of the above requirements are currently approved by OMB and the Administration for Children and Families is simply proposing to extend them without any changes.

Respondents

Indian Tribes.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Final Tribal TANF Data Report	66	4	451	119,064
Tribal TANF Annual Report	66	1	40	2,640
Tribal TANF Reasonable Cause/Corrective	66	1	60	3,960
Estimated Total Annual Burden Hours				125,664

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–2882 Filed 2–7–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Change in Application Requirements

AGENCY: Administration on Developmental Disabilities, ACF, HHS.

ACTION: Notification of change in allocation notification procedures to State Protection and Advocacy Systems (P&As) for mandatory awards under the Help America Vote Act (HAVA), Public Law 107–252.

CFDA Number: 93.617.

Statutory Authority: Title II, Subtitle D, Part 5, of HAVA 42 U.S.C. 15461–62; Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) (42 U.S.C. 15002); and Section 509 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794e)

SUMMARY: The Administration for Children and Families (ACF), Administration on Developmental Disabilities (ADD) has modified the application requirements for awards made to P&As under HAVA, Public Law 107–252. Under the program, formula grants are allotted to States based on population, financial need, and need for service. P&As provide services to individuals with developmental disabilities based on the identification of goals in the areas of emphasis listed in the DD Act and based on public input.

Section 291 of HAVA does not outline specific application requirements for P&As. Therefore, ADD has the discretion to alter the process by which P&As are notified of their annual allocations. Accordingly, P&As will no longer be required to submit an application; and, an annual Funding Opportunity Announcement (FOA) will no longer be published. Instead, ADD will now rely solely on the official notification provided to P&As by ACF's Division of Mandatory Grants. This notice informs P&As of the availability of their annual award allocations.

FOR FURTHER INFORMATION CONTACT: Melvenia Wright, Program Specialist. Telephone: (202) 690–5557. Email: *Melvenia.Wright@acf.hhs.gov*.

Dated: February 2, 2012.

Sharon Lewis,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 2012–2920 Filed 2–7–12; 8:45 am]

BILLING CODE 4184–38–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0827]

Agency Information Collection Activities; Proposed Collection; Comment Request; Revisions to Labeling Requirements for Blood and Blood Components, Including Source Plasma; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction and extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of December 30, 2011. In the **Federal Register** of December 30, 2011, FDA published a notice entitled "Agency Information Collection Activities; Proposed Collection; Comment Request; Revisions to Labeling Requirements for Blood and Blood Components, Including Source Plasma," which provided incorrect publication information regarding the availability of the final rule. This document corrects this error and extends the comment period. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion final rule correction notice.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3208, Silver Spring, MD 20993–0002, 301–796–9148.

SUPPLEMENTARY INFORMATION: In FR Doc. 2011–33555, appearing on page 82300 in the **Federal Register** of Friday, December 30, 2011 (76 FR 82300), the following corrections are made:

1. On page 82300, in the third column, in the **DATES** section, the submission date for comments should be corrected to "April 9, 2012". We are extending the comment period from February 28, 2012, to 60 days after this correction notice publishes to allow the public sufficient time to comment.

2. On page 82301, in the first column, in the second full paragraph in the **SUPPLEMENTARY INFORMATION** section, the last sentence is corrected to read: "This document solicits comments on certain labeling requirements for blood and blood components, including Source Plasma, finalized as part of a rule FDA published on January 3, 2012, entitled 'Revisions to Labeling Requirements for Blood and Blood Components, Including Source Plasma.'" We are making this change because the final rule inadvertently did not publish on December 30, 2011.

Dated: February 2, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–2827 Filed 2–7–12: 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 28 and 29, 2012 from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading "Resources for You," click on "Public Meetings at the FDA White Oak Campus." Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Paul Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, (301) 796–9001, Fax: (301) 847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1 (800) 741–8138 (301) 443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line 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. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On both days, the committee will discuss the role of cardiovascular assessment in the preapproval and postapproval settings for drugs and biologics developed for the treatment of obesity.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

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 March 14, 2012. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 10 a.m. on March 29, 2012. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 6, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 7, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paul Tran at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 2, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–2760 Filed 2–7–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0067]

Assessment of Analgesic Treatment of Chronic Pain—A Public Workshop; Request for Comments

AGENCY: Food and Drug Administration.

ACTION: Notice of public workshop; request for comments.

The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is announcing a public workshop to hear a discussion of the available data on the efficacy of analgesics in the treatment of chronic non-cancer pain (CNCP). The focus of the presentations and discussions by scientific experts and other stakeholder

groups will be on the available clinical data from both randomized clinical trials and other studies of the efficacy of opioid analgesics, and comparison of that data to the data from studies of non-opioid analgesics used in the treatment of CNCP.

Date and Time: The public workshop will be held on May 30, 2012, from 1 p.m. to 5:15 p.m. and on May 31, 2012, from 8:30 a.m. to 5 p.m.

Location: The workshop will be held at the Natcher Auditorium, Natcher Conference Center, National Institutes of Health Campus, 45 Center Dr., Bethesda, MD 20892.

Contacts: Mary C. Gross, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6178, Silver Spring, MD 20993–0002, (301) 796–3519; or Matthew Sullivan, Center for Drug Evaluation, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 3160, Silver Spring, MD 20993–0002, (301) 796–1245.

Registration: If you wish to attend the workshop or provide oral comments during the open session of the meeting, please email your registration to *CDER_ChronicPain_Workshop @FDA.HHS.GOV* by May 15, 2012. Those without email access may register by contacting one of the persons listed in the *Contacts* section of the document. Please provide complete contact information for each attendee, including name, title, affiliation, address, email address, and telephone number. Registration is free and will be on a first-come, first-served basis. Registrants will receive confirmation once they have been accepted for the workshop. Onsite registration on the day of the meeting will be based on space availability. If registration reaches maximum capacity, FDA will post a notice closing the meeting registration for the workshop at: *http://www.fda.gov/Drugs/NewsEvents/ucm283979.htm.*

An open session of the meeting will be held between 3:45 p.m. and 5 p.m. on May 30, 2012, during which time public comments will be accepted. We will try to accommodate all persons who wish to speak at this open session; however, the duration of each speaker's testimony may be limited by time constraints.

Comments: Submit either electronic or written comments by August 1, 2012. Submit electronic comments 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. It is only necessary to send one set of 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.

If you need special accommodations due to a disability, contact Mary Gross or Matthew Sullivan (see *Contacts*) at least 7 days in advance.

SUPPLEMENTARY INFORMATION:

I. Introduction

CNCP is a major cause of pain and disability for millions of Americans. The prescribing of opioids for pain has risen steadily in the United States over the past two decades, including the prescribing of opioids to treat CNCP. Questions have been raised about the efficacy of opioids in the treatment of CNCP, including which patients benefit from the chronic use of opioids, the durability of analgesia provided by opioid analgesics, and how best to manage the use of these drugs. Addressing this uncertainty begins with a discussion of the available scientific data on the use of opioids in chronic painful conditions. The discussion will include health care professionals, clinical investigators, regulators, manufacturers, patients, caregivers, and advocacy groups. Where gaps in our knowledge are identified, it will be important to discuss the research that needs to be undertaken to better understand the effectiveness of all analgesics for the treatment of chronic non-cancer pain, and opioid analgesics in particular.

The purpose of the meeting is to provide a forum to discuss the available data on the use of analgesics in the treatment of CNCP, beginning with a discussion of the underlying mechanisms of chronic pain and the epidemiology of chronic pain in the United States. Next, data on the efficacy of opioids and other analgesics in the treatment of chronic pain from a variety of sources will be reviewed. Those sources will include randomized controlled trials, epidemiological studies, case series and other types of studies. Patient and clinician perspectives on the pharmaceutical treatment of CNCP will be presented by people living with chronic pain and those who treat or care for patients with chronic pain. Finally, a general assessment of the available data and discussion of future research needs and next steps will be used to inform future actions that can help guide appropriate therapy for patients with CNCP.

FDA will be considering the following questions during the workshop:

1. What is currently known about the mechanisms of chronic pain?
2. How might this knowledge affect the use of pharmaceuticals chronically for the treatment of pain?
3. What is known regarding use of pain biomarkers (e.g., phenotyping, imaging, genotyping)?
4. What is known about the sources of chronic pain, the populations affected by it, and trends in current use of pharmaceuticals in its treatment?
5. What data are available from controlled trials that have examined the use of pharmaceuticals in the treatment of chronic pain?
6. What data are available from other sources on the use of pharmaceuticals in the treatment of chronic pain?
7. Can populations and individuals who would benefit from chronic use of pharmaceuticals be identified?
8. Can individuals at high risk for adverse effects be identified?
9. What more should be known about the use of pharmaceuticals to treat chronic pain?

FDA will post the agenda and additional workshop background material approximately 5 days before the workshop at *http://www.fda.gov/Drugs/NewsEvents/ucm283979.htm.*

II. Transcripts

Please be advised that approximately 30 days after the public workshop, a transcript will be available. It will be accessible at *http://www.regulations.gov* and may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available 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.

Dated: February 2, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–2757 Filed 2–7–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Intent To Prepare an Environmental Impact Statement and Notice of Scoping Meeting

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act, 42

U.S.C. 4321–4347, the National Institutes of Health (NIH) is issuing this notice to advise the public that an environmental impact statement will be prepared for the National Institutes of Health, Bethesda Campus Master Plan, Bethesda, Maryland.

DATES: The Scoping Meeting is planned for 6 p.m. on February 28th, 2012. Scoping comments must be postmarked no later than March 26, 2012 to ensure they are considered.

ADDRESSES: The Scoping Meeting will be held at 6001 Executive Plaza, Conference Room D, Bethesda, Maryland. All comments and questions on the Scoping Meeting and Environmental Impact Statement should be directed to Valerie Nottingham, Chief, Environmental Quality Branch, Division of Environmental Protection, Office of Research Facilities, NIH, B13/2S11, 9000 Rockville Pike, Bethesda, Maryland 20892, telephone (301) 496–7775; fax (301) 480–8056; or email *nihnepa@mail.nih.gov*.

FOR FURTHER INFORMATION CONTACT: Valerie Nottingham, Chief, Environmental Quality Branch, Division of Environmental Protection, Office of Research Facilities, NIH, B13/2S11, 9000 Rockville Pike, Bethesda, Maryland 20892, telephone (301) 496–7775; fax (301) 480–8056; or email *nihnepa@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: NIH is the focal point of the federal government for health research and is one of the world's foremost biomedical research institutions. The NIH mission is to discover new knowledge that will lead to better health for all. To achieve that mission, nearly eighty percent of the total NIH budget is expended in the form of peer-reviewed, competitively awarded research grants, cooperative agreements, and contracts to nearly 50,000 principal investigators at more than 1,700 institutions across the country including universities, medical schools, and hospitals. In addition, some 2,000 research projects are conducted in the NIH intramural laboratories and at the NIH Clinical Center. Research is conducted at both the basic and clinical levels, encompassing studies related to the prevention, diagnosis, treatment and cure of the many diseases that afflict the men, women and children of the world. In addition, the basic research supported by NIH provides the foundation for the nation's pharmaceutical and biotechnology industries. As one measure of the agency's excellence in research, it should be noted that NIH-supported investigators won over 107 Nobel Prizes from 1939 to 2002.

A Master Plan is an integrated series of documents that present in graphic, narrative, and tabular form the current composition of NIH campuses and the plan for their orderly and comprehensive development over a 20-year period. The plan provides guidance in coordinating the physical development of NIH campuses, including building locations, utility capacities, road alignments, parking facilities, and the treatment of open spaces. General design guidelines are also used to provide detailed guidance for the placement and design of physical improvements.

The proposed action is to develop a long-range physical master plan for NIH. The plan will cover a 20-year planning period and address the future development of the NIH site, including placement of future construction; vehicular and pedestrian circulation; parking within the property boundaries; open space in and around the campus; required setbacks; historic properties; natural and scenic resources; noise; and lighting. The plan will examine potential growth in NIH personnel and consequent construction of space over the planning period. Future construction on the site could include such facilities as new animal holding, research laboratories, and support facilities.

In accordance with 40 CFR 1500–1508 and DHHS environmental procedures, NIH will prepare an Environmental Impact Statement (EIS) for the proposed master plan. The EIS will evaluate the impacts of the master plan should development occur as proposed. Among the items the EIS will examine are the implications of the master plan on community infrastructure, including, but not limited to, utilities, storm water management, traffic and transportation, and other public services. To ensure that the public is afforded the greatest opportunity to participate in the planning and environmental review process, NIH is inviting oral and written comments on the master plan and related environmental issues.

The NIH will be sponsoring a public Scoping Meeting to provide individuals an opportunity to share their ideas on the master planning effort, including recommended alternatives and environmental issues the EIS should consider. All interested parties are encouraged to attend. NIH has established a 45-day public comment period for the scoping process.

Dated: February 2, 2012.

Daniel G. Wheeland,

Director, Office of Research Facilities Development and Operations, National Institutes of Health.

[FR Doc. 2012–2921 Filed 2–7–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 of Environmental Health Sciences, Special Emphasis Panel, Environmental Stem Cells Research.

Date: February 29–March 2, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel, 150 Park Drive, Ballroom ABC, Research Triangle Park, NC 27709.

Contact Person: Teresa Nesbitt, Ph.D., DVM, Chief, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–7571, *nesbittt@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 31, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–2871 Filed 2–7–12; 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 and 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 a meeting 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 of Child Health and Human Development Special Emphasis Panel; Prenatal Events-Postnatal Consequences.

Date: February 28, 2012.

Time: 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852.

Contact Person: Peter Zelazowski, Ph.D., 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) 435–6902, *peter.zelazowski@nih.gov.*

(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: February 1, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–2879 Filed 2–7–12; 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 and 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 a meeting 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 of Child Health and Human Development Special Emphasis Panel; ZHD1 DRG–D 56 2.

Date: February 15, 2012.

Time: 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sherry L. Dupere, Ph.D., Director, Division of Scientific Review, 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) 451–3415, *duperes@mail.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: February 1, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–2922 Filed 2–7–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 materials, 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 of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders C.

Date: March 1–2, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel and Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, NSC, 6001 Executive Blvd., Room 3202, MSC 9529, Bethesda, MD 20892–9529, (301) 496–0660, *Benzing2@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders K.

Date: March 2, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW., Washington, DC 20001.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, NSC, 6001 Executive Blvd., Room 3202, MSC 9529, Bethesda, MD 20892–9529, (301) 435–6033, *Rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; NST–2 Subcommittee.

Date: March 5–6, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: JoAnn McConnell, Ph.D., Scientific Review Officer, Scientific Review

Branch, Division of Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, NSC, 6001 Executive Blvd., Room 3202, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5324, *McConnej@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders A.

Date: March 8, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Argonaut Hotel, 495 Jefferson Street, San Francisco, CA 94109.

Contact Person: Richard D. Crosland, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, NSC, 6001 Executive Blvd., Room 3202, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 1, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–2880 Filed 2–7–12; 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 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: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Minority Training.

Date: February 27, 2012.

Time: 1 p.m. to 3 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: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, (301) 435–0288, *cjoyce@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Utilization of a Human Lung Tissue Resource for Vascular Research.

Date: February 28, 2012.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National, Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, *sunnarborgsw@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Mentoring Programs to Promote Diversity in Health Research.

Date: February 28–29, 2012.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Dulles, Hyatt, 2300 Dulles Corner Blvd., Herndon, VA 20171.

Contact Person: Stephanie L Constant, Ph.D., 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: February 1, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–2877 Filed 2–7–12; 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: Heart, Lung, and Blood Initial Review Group Clinical Trials Review Committee

Date: February 27–28, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Keary A Cope, Ph.D., Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, (301) 435–2222, *copeka@mail.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: January 31, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–2870 Filed 2–7–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2012–0044]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for the following collection of information: 1625—NEW, Coast Guard Living Marine Resources (LMR) Enforcement Survey. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before April 9, 2012.

ADDRESSES: You may submit comments identified by Coast Guard docket

number [USCG–2012–0044] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *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.

(4) *Fax:* (202) 493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–611), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2100 2nd Street SW., Stop 7101, Washington, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Ms. Kenlinishia Tyler, Office of Information Management, telephone (202) 475–3652, or fax (202) 475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, (202) 366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2012–0044], and must be received by April 9, 2012. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the "Privacy Act" paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2012–0044], indicate the specific section of the document to which each comment applies, providing a reason for each comment. 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 DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or hand delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type "USCG–2012–0044" in the "Keyword" box. 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 will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice 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–2012–0044" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in 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 statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

Title: Coast Guard Living Marine Resources (LMR) Enforcement Survey.

OMB Control Number: 1625—NEW.

Summary: The purpose of this survey is to assess the effectiveness of various enforcement techniques available to the U.S. Coast Guard to promote compliance with federal LMR regulations. The results of this survey will ultimately allow the Coast Guard to link level and type of Coast Guard enforcement efforts with compliance decisions made by the regulated community.

Need: The Government Performance and Results Act (Pub. L. 103–62) requires federal agencies to evaluate the performance and effectiveness of their programs. To evaluate the Coast Guard's LMR enforcement effectiveness, it is necessary to assess regulated community perceptions of various Coast Guard enforcement efforts. This analysis of enforcement effectiveness will in turn be used by the Coast Guard to allocate assets in such a way that efficiently maximizes influence on compliance.

Forms: None.

Respondents: U.S. marine fishing permit holders and registered saltwater recreational fishermen.

Frequency: This survey will be a one-time collection.

Burden Estimate: The estimated burden is 3,600 hours.

Dated: February 1, 2012.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2012–2676 Filed 2–7–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Proposed Collection; Comment Request; Collection of Qualitative Feedback Through Focus Groups

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: 60-day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting a Generic Information Collection Request (Generic ICR): "Collection of Qualitative Feedback through Focus Groups" to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et. seq.*).

DATES: Interested persons are invited to submit comments on or before April 9, 2012.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Sunday Aigbe, Chief, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Avenue NW., Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to (202) 272–0997 or via email at *USCISFRComment@dhs.gov* and to the OMB USCIS Desk Officer via facsimile at (202) 395–5806. When submitting comments by email, please make sure to add "USCIS Qualitative Feedback through Focus Groups" in the subject box.

SUPPLEMENTARY INFORMATION:

Title: Collection of Qualitative Feedback through Focus Groups.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback USCIS means information that provides useful insights on perceptions and opinions, but not responses to statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide information on customer and stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, and/or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders and contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not be generalized to the overall population. This data collection will not be used to generate quantitative information that is designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

Below we provide the USCIS projected average burden estimates for the next three years:

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations.

Average Expected Annual Number of Activities: One.

Amount of Time Estimated for an Average Respondent To Respond

Focus Group with stakeholders: 500 Respondents × 1 hour and 30 minutes per response.

Focus Group with immigrants: 500 Respondents × 1 hour and 30 minutes per response.

An estimate of the total public burden (in hours) associated with the collection: 1,500 annual burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid Office of Management and Budget control number. As individual information collection instruments are developed, they will be made available at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020, Telephone number (202) 272–8377.

Dated: February 2, 2012.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–2822 Filed 2–7–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5500–FA–27]

Announcement of Funding Awards; Fair Housing Initiatives Program Fiscal Year 2011

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, the Department of Housing and Urban Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Notice of Funding Availability (NOFA) for the Fair Housing Initiatives Program (FHIP) for Fiscal Year (FY) 2011. This announcement contains the names and addresses of those award recipients selected for funding based on the rating and ranking of all applications and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Myron Newry, Director, FHIP Division, Office of Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street SW., Room 5230,Washington, DC 20410. Telephone number (202) 402–7095 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (the Fair Housing Act) provides the Secretary of

Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616, established FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

The Department published its Fair Housing Initiatives Program (FHIP) NOFA on July 25, 2011 announcing the availability of approximately $40,670,850 out of the Department's FY 2011 appropriation, to be utilized for FHIP projects and activities. Funding availability for discretionary grants included: the Private Enforcement Initiative (PEI) ($26,000,000), the Education and Outreach Initiative (EOI) ($6,670,850), and the Fair Housing Organizations Initiative (FHOI) ($8,000,000). This Notice announces grant awards of approximately $40,670,850.

For the FY 2011 NOFA, the Department reviewed, evaluated and scored the applications received based on the criteria in the FY 2011 NOFA. As a result, HUD has funded the applications announced in Appendix A, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing details concerning the recipients of funding awards in Appendix A of this document.

The Catalog of Federal Domestic Assistance Number for currently funded Initiatives under the Fair Housing Initiatives Program is 14.408.

Dated: February 2, 2012.

John D. Trasviña,

Assistant Secretary for Fair Housing and Equal Opportunity.

Appendix A

FY 2011 Fair Housing Initiatives Program Awards

Applicant name	Contact	Region	Award amt.
Education and Outreach/Affirmatively Furthering Fair Housing Component			
National Community Reinvestment Coalition, 727 15th Street NW., Suite 900, Washington, DC 20005.	David Berenbaum, 202–628–8866	11	$499,664.00
Education and Outreach/General Comopnent			
HAP, Inc., 322 Main Street, Springfield, MA 01105	Carol Walker, 413–233–1668	1	117,409.00
Champlain Valley Office of Economic Opportunity, 191 North Street, Burlington, VT 05401.	Kevin Stapleton, 802–864–3334	1	125,000.00
Housing Counseling in the Monroe County Area, Inc., 75 College Avenue, Rochester, NY 14607.	Julio Saenz, 585–546–3700	1	102,577.00
Neighborhood Economic Development Advocacy Project, Inc., 176 Grand Street, Suite 300, New York, NY 10013.	Sarah Ludwig, 212–680–5100	2	125,000.00
Buffalo Urban League Inc., 15 Genesee Street, Buffalo, NY 14203.	Beverly Moore, 716–250–2402	2	58,222.00
Citizen Action for New Jersey, 744 Broad Street, Newark, NJ 07102.	Leila Amirhamzeh, 973–643–8800	2	125,000.00
Southwestern Pennsylvania Legal Services, Inc., 10 West Cherry Ave., Washington, PA 15301.	Robert Brenner, 724–225–6170	3	1,092.00
Equal Rights Center, 11 Dupont Circle NW., Suite 450, Washington, DC 20036.	Hilary Tone, 202–234–3062	3	125,000.00
Piedmont Housing Alliance, 1215 East Market Street, Suite B, Charlottesville, VA 22902.	Karen Reifenberger, 434–817–2436	3	75,822.00
Housing Opportunities Project for Excellence, Inc., 11501 NW 2nd Avenue, Miami, FL 33168.	Keenya Robertson, 305–651–4673	4	125,000.00
Fair Housing Center for the Gulf Coast of Mississippi, P.O. Box 1592, Gulfport, MS 39502.	Charmel Gaulden, 228–396–4008	4	125,000.00
JCVISION AND ASSOCIATES, Inc., P.O. Box 1972, Hinesville, GA 31310.	Dana Ingram, 912–877–4243	4	120,330.00
University of Southern Mississippi, 118 College Drive, #5157, Hattiesburg, MS 39406.	Michelle Shows, 601–266–4119	4	125,000.00
Greenville County Human Relations Commission, 301 University Ridge, Suite 1600, Greenville, SC 29601.	Sharon Smathers, 864–467–7095	4	125,000.00
Interfaith Housing Center of the Northern Suburbs, 614 Lincoln Avenue, Winnetka, IL 60093.	Gail Schechter, 847–501–5760	5	125,000.00
Oak Park Regional Housing Center, 1041 South Boulevard, Oak Park, IL 60302.	James Breymaier, 708–848–7150	5	125,000.00
Fair Housing Center of West Michigan, 20 Hall Street SE., Grand Rapids, MI 49507.	Nancy Haynes, 616–451–2980	5	125,000.00
Coalition on Homelessness and Housing in Ohio, 175 S. Third Street, Columbus, OH 43215.	Douglas Argue, 614–280–1984	5	125,000.00
Housing Opportunities Made Equal of Greater Cincinnati, Inc., 2400 Reading Road, Suite 118, Cincinnati, OH 45202.	Elizabeth Brown, 513–721–4663	5	124,893.00

FY 2011 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amt.
Metropolitan Milwaukee Fair Housing Council, Inc., 600 East Mason Street, Milwaukee, WI 53202.	William Tisdale, 414–278–1240	5	124,730.00
Greater New Orleans Fair Housing Action Center, Inc., 404 South Jefferson Davis Parkway, New Orleans, LA 70119.	James Perry, 504–596–2100	6	125,000.00
Missouri Commission on Human Rights, 3315 W. Truman Blvd., Jefferson City, MO 65102.	Alisa Warren, 573–522–1019	7	124,675.00
Disability Law Center, 205 North 400 West, Salt Lake City, UT 84103.	Adina Zahradnikova, 801–363–1347	8	124,900.00
Inland Mediation Board, 10681 Foothill Blvd., Rancho Cucamonga, CA 91730.	Lynne Anderson, 909–984–2254	9	125,000.00
Idaho Legal Aid Services, Inc., 310 North 5th Street, Suite 101, Boise, ID 83702.	James Cook, 208–345–0106	10	96,878.00
Intermountain Fair Housing Council, Inc., 350 N. 9th Street, Suite M–200, Boise, ID 83702.	Richard Mabbutt, 208–383–0695	10	124,654.00
Fair Housing Council of Oregon, 506 SW 6th Avenue, Suite 1111, Portland, OR 97204.	Moloy Good, 503–223–8197	10	125,000.00
Education and Outreach Initiative/Higher Education Component			
John Marshall Law School, 315 S. Plymouth Court, Chicago, IL 60604.	Michael Seng, 312–987–2397	5	99,668.00
Education and Outreach Initiative/Lending Component			
Neighborhood Economic Development Advocacy Project, 176 Grand Street, Suite 300, New York, NY 10013.	Sarah Ludwig, 212–680–5100	2	125,000.00
Housing Counseling Services, 2410 17th Street NW., Washington, DC 20009.	Marian Siegel, 202–667–7006	3	125,000.00
Mobile Fair Housing Center, Inc., P.O. Box 161202, Mobile, AL 36616.	Teresa Bettis, 251–479–1532	4	124,998.00
Legal Aid Society of Palm Beach County, Inc., 423 Fern Street, Suite 200, West Palm Beach, FL 33401.	Robert Bertisch, 561–655–8944	4	125,000.00
Interfaith Housing Center of the Northern Suburbs, 614 Lincoln Avenue, Winnetka, IL 60093.	Gail Schechter, 847–501–5760	5	110,874.00
John Marshall Law School, 315 S. Plymouth Court, Chicago, IL 60604.	Michael Seng, 312–987–2397	5	62,568.00
Community Legal Aid Services, Inc., 50 South Main Street, Suite 800, Akron, OH 44308–1828.	Sara Strattan, 330–535–4191	5	76,654.00
Miami Valley Fair Housing Center, 21 East Babbitt Street, Dayton, OH 45405.	Jim McCarthy, 937–223–6035	5	125,000.00
Idaho Legal Aid Services, Inc., 310 N. 5th Street, Boise, ID 83702.	James Cook, 208–336–8980	10	124,906.00
Fair Housing Organizations Initiative—Continuing Development Component General			
Fair Housing Partnership of Greater Pittsburgh, 2840 Liberty Avenue, Pittsburgh, PA 15222.	Peter Harvey, 412–391–2535	3	99,988.00
Housing Opportunities Made Equal of Virginia, Inc., 626 East Broad Street, Suite 400, Richmond, VA 23219.	Lorae Ponder, 804–354–0641	3	141,209.00
North Texas Fair Housing Center, 8625 King George Drive, Suite 130, Dallas, TX 75235.	Frances Espinoza, 469–941–0383	6	108,805.00
Silver State Fair Housing Council, 855 E. Fourth Street, Suite E, Reno, NV 89512.	Katherine Knister, 775–324–0990	9	324,998.00
Fair Housing Council of Oregon, 506 SW 6th Avenue, Suite 1111, Portland, OR 97204.	Moloy Good, 503–223–8197	10	325,000.00
Fair Housing Organizations Initiative/Establishing New Organizations Component			
National Fair Housing Alliance, 1101 Vermont Avenue NW., Suite 710, Washington, DC 20005.	Catherine Cloud, 202–898–1661	8	1,250,000.00
Fair Housing Organizations Initiative/Mortgage Rescue Scam Component			
Brooklyn Housing and Family Services, Inc., 415 Albemarle Road, Brooklyn, NY 11218.	Carol Finegan, 718–435–7585	2	325,000.00
Brooklyn Legal Services Corp. A, 256–260 Broadway, Brooklyn, NY 11211.	Gloria Ramon, 718–487–2328	2	325,000.00
Long Island Housing Services, Inc., 640 Johnson Avenue, Suite 8, Bohemia, NY 11716.	Michelle Santantonio, 631–567–5111	2	325,000.00

FY 2011 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amt.
LSNY-Bronx Corporation (dba Legal Services NYC-Bronx), 579 Courtlandt Avenue, Bronx, NY 10451.	Justin Haines, 718–928–2894	2	325,000.00
Queens Legal Services Corporation, 89–00 Sutphin Boulevard, Suite 206, Jamaica, NY 11435.	Jennifer Ching, 347–592–2242	2	325,000.00
South Brooklyn Legal Services, Inc., 105 Court Street, Brooklyn, NY 11201.	Meghan Faux, 718–246–3276	2	325,000.00
National Community Reinvestment Coalition, 727 15th Street NW., Suite 900, Washington, DC 20005.	David Berenbaum, 202–628–8866	3	324,410.00
Lawyers' Committee for Civil Rights Under Law, 1401 New York Avenue NW., Washington, DC 20005.	Kathleen McEnerny, 202–662–8314	3	323,054.00
Miami Valley Fair Housing Center, Inc., 21 East Babbitt Street, Dayton, OH 45405.	Jim McCarthy, 937–223–6035	5	325,000.00
Houston Area Urban League, 1301 Texas, Houston, TX 77002.	Judson Robinson, 713–393–8700	6	243,179.00
Housing and Economic Rights Advocates, 1814 Franklin Street, Suite 1040, Oakland, CA 94612.	Maeve Brown, 510–271–8443	9	154,887.00
Northwest Fair Housing Alliance, 35 W. Main, Spokane, WA 99201.	Marley Hochendoner, 509–209–2667	10	325,000.00
Private Enforcement Initiative/Mortgage Rescue Scam Component			
Community Legal Aid, Inc., 405 Main Street, Worcester, MA 01608.	Faye Rachlin, 508–752–3718	1	182,000.00
Legal Services NYC Staten Island, 36 Richmond Terrace, Staten Island, NY 10301.	Nancy Goldhill, 718–233–6490	2	325,000.00
LSNY-Bronx Corporation (dba Legal Services NYC-Bronx), 579 Courtlandt Avenue, Bronx, NY 10451.	Justin Haines, 718–928–2894	2	325,000.00
Queens Legal Services Corporation, 89–00 Sutphin Boulevard, Suite 206, Jamaica, NY 11435.	Jennifer Ching, 347–592–2242	2	325,000.00
South Brooklyn Legal Services, Inc., 105 Court Street, Brooklyn, NY 11201.	Meghan Faux, 718–246–3276	2	325,000.00
Westchester Residential Opportunities, Inc., 470 Mamaroneck Avenue, Suite 410, White Plains, NY 10605.	Geoffrey Anderson, 914–428–4507	2	325,000.00
National Community Reinvestment Coalition, 727 15th Street NW., Suite 900, Washington, DC 20005.	David Berenbaum, 202–628–8866	3	321,743.00
National Fair Housing Alliance, 1101 Vermont Avenue NW., Washington, DC 20005.	Catherine Cloud, 202–898–1661	3	323,591.00
Housing Opportunities Made Equal of Virginia, Inc., 626 E. Broad Street, Suite 400, Richmond, VA 23219.	Lorae Ponder, 804–354–0641	3	121,077.00
Community Legal Services of Mid-Florida, Inc., 128 Orange Avenue, Daytona Beach, FL 32114.	Suzanne Edmunds, 386–255–6573	4	325,000.00
Legal Aid Society of Palm Beach, 423 Fern Street, Suite 200, West Palm Beach, FL 33401.	Robert Bertisch, 561–655–8944	4	318,270.00
Community Reinvestment Association of North Carolina, 110 E. Geer Street, Apartment 4, Durham, NC 27701.	Joel Skillern, 919–667–1557	4	325,000.00
West Tennessee Legal Services, Inc., 210 West Main Street, Jackson, TN 38301.	John Xanthopoulos, 731–426–1311	4	325,000.00
HOPE Fair Housing Center, 2100 Manchester Road, C–1620, Wheaton, IL 60187.	Shirley Stacy, 630–690–6500	5	312,576.00
Miami Valley Fair Housing Center, Inc., 21 East Babbitt Street, Dayton, OH 45405.	Jim McCarthy, 937–223–6035	5	325,000.00
Greater New Orleans Fair Housing Action Center, Inc., 404 South Jefferson Davis Parkway, New Orleans, LA 70119.	James Perry, 504–596–2100	6	325,000.00
California Rural Legal Assistance, Inc., 631 Howard Street, Suite 300, San Francisco, CA 94105.	Austa Wakily, 530–742–0694	9	250,000.00
Private Enforcement Initiative/Multi-Year Component			
Fair Housing Center of Greater Boston, 59 Temple Place, Boston, MA 02111–1344.	Tracy Brown, 617–399–0491	1	325,000.00
Vermont Legal Aid, Inc., 264 North Winooski Avenue, Burlington, Vermont 05402.	Rachel Batterson, 802–863–5620	1	324,987.00
Fair Housing Council of Central New York, Inc., 327 W. Fayette Street, Syracuse, NY 13202.	Merrilee Witherell, 315–471–0420	2	322,025.00
Fair Housing Justice Center, Inc., 5 Hanover Square, 17th Floor, New York, NY 10004.	Fred Freiberg, 212–400–8232	2	324,999.00
Housing Opportunities Made Equal Inc., 700 Main Street, 3rd Floor, Buffalo, NY 14202.	Scott Gehl, 716–854–1400	2	308,167.00
Legal Services NYC Staten Island, 36 Richmond Terrace, Staten Island, NY 10301.	Nancy Goldhill, 718–233–6490	2	325,000.00

FY 2011 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amt.
National Fair Housing Alliance, 1101 Vermont Avenue NW., Washington, DC 20005.	Catherine Cloud, 202–898–1661	3	325,000.00
Community Legal Aid Society, Inc., 100 West 10th Street, Suite 801, Wilmington, DE 1980.	Teresa Cheek, 302–575–0660	3	306,998.00
Baltimore Neighborhoods, Inc., 2530 N. Charles Street, Baltimore, MD 21218.	Elijah Etheridge, 410–243–4468	3	324,411.00
Fair Housing Council of Suburban Philadelphia, Inc., 455 Maryland Drive, Suite 190, Fort Washington, PA 19034.	James Berry, 267–419–8918	3	324,877.00
Fair Housing Right Center in Southeastern Pennsylvania, 105 E. Glenside Avenue, Suite E, Glenside, PA 19038.	Angela McIver, 215–576–7711	3	324,000.00
Southwestern Pennsylvania Legal Services, Inc., 10 West Cherry Ave., Washington, PA 15301.	Robert Brenner, 724–225–6170	3	325,000.00
Bay Area Legal Services, Inc., 829 W. Dr. MLK, Jr., Blvd., Suite 200, Tampa, FL 33603.	Richard Woltmann, 813–232–1222	4	292,920.00
Community Legal Services of Mid-Florida, Inc., 128 Orange Avenue, Daytona Beach, FL 32114.	Suzanne Edmunds, 386–255–6573	4	325,000.00
Fair Housing Continuum, Inc., 4760 N. Hwy. US1, Suite 203, Melbourne, FL 32935.	David Baade, 321–757–3532	4	320,667.00
Jacksonville Area Legal Aid, Inc., 126 West Adams Street, Jacksonville, FL 32202.	Michael Figgins, 904–356–8371	4	324,902.00
Legal Aid Society of Palm Beach County, Inc., 423 Fern Street, Suite 200, West Palm Beach, FL 33401.	Robert Bertisch, 561–655–8944	4	313,246.00
Lexington Fair Housing Council, Inc., 207 E. Reynolds Road, Suite 130, Lexington, KY 40517.	Arthur Crosby, 859–971–8067	4	296,996.00
West Tennessee Legal Services, Inc., 210 West Main Street, Jackson, TN 38301.	John Xanthopoulos, 731–426–1311	4	325,000.00
HOPE Fair Housing Center, 2100 Manchester Road, C–1620, Wheaton, IL 60187.	Shirley Stacy, 630–690–6500	5	324,020.00
South Suburban Housing Center, 18220 Harwood Avenue, Suite 1, Homewood, IL 60430.	John Petruszak, 708–957–4674	5	324,775.00
Fair Housing Center of Metropolitan Detroit, 220 Bagley Street, Suite 1020, Detroit, MI 48226.	Clifford Schrupp, 313–963–1274	5	299,525.00
Fair Housing Center of Southeastern Michigan, P.O. Box 7825, Ann Arbor, MI 48107.	Pamela Kisch, 734–994–3426	5	275,765.00
Fair Housing Center of West Michigan, 20 Hall Street SE., Grand Rapids, MI 49507.	Nancy Haynes, 616–451–2980	5	325,000.00
Legal Services of Eastern Michigan, 436 S. Saginaw Street, Suite 101, Flint, MI 48502.	Teresa Trantham, 810–234–2621	5	266,448.00
Fair Housing Contact Services, Inc., 441 Wolf Ledges Parkway, Suite 200, Akron, OH 44311.	Tamala Skipper, 330–376–6191	5	325,000.00
Fair Housing Resource Center, Inc., 1100 Mentor Avenue, Painesville, OH 44077.	Patricia Kidd, 440–392–0147	5	325,000.00
Miami Valley Fair Housing Center, Inc., 21 East Babbitt Street, Dayton, OH 45405.	Jim McCarthy, 937–223–6035	5	325,000.00
Metropolitan Milwaukee Fair Housing Council, Inc., 600 East Mason Street, Milwaukee, WI 53202.	William Tisdale, 414–278–1240	5	322,629.00
Greater New Orleans Fair Housing Action Center, Inc., 404 South Jefferson Davis Parkway, New Orleans, LA 70119.	James Perry, 504–596–2100	6	325,000.00
San Antonio Fair Housing Council, Inc., 4414 Centerview Drive, Suite 229, San Antonio, TX 78228.	Sandra Tamez, 210–733–3247	6	325,000.00
Family Housing Advisory Services, Inc., 2401 Lake Street, Omaha, NE 68111.	Joseph Garcia, 402–934–6669	7	325,000.00
Montana Fair Housing, Inc., 519 East Front Street, Butte, MT 59701.	Pamela Bean, 406–782–2573	8	167,900.00
Arizona Fair Housing Center, 615 N. 5th Avenue, Phoenix, AZ 85003.	Edward Valenzuela, 602–548–1599	9	320,001.00
Fair Housing Council of Central California, 333 W. Shaw Avenue, Suite 14, Fresno, CA 93704.	Marilyn Borelli, 559–244–2950	9	259,034.00
Greater Napa Fair Housing Center, 603 Cabot Way, Napa, CA 94559.	Nicole Collier, 707–224–9720	9	309,000.00
Southern California Housing Rights Center, 520 South Virgil Avenue, Suite 400, Los Angeles, CA 90020.	Chancela Al-Mansour, 213–387–8400	9	324,980.00
Legal Aid Society of Hawaii, 924 Bethel Street, Honolulu, HI 96813.	Elise Von Dohlen, 808–527–8056	9	325,000.00
Silver State Fair Housing Council, 855 E. Forth Street, Suite E, Reno, NV 89512.	Katherine Knister, 775–324–0990	9	325,000.00
Fair Housing Center of Washington, 1517 South Fawcett, Suite 250, Tacoma, WA 05402.	Lauren Walker, 253–274–9523	10	325,000.00

FY 2011 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amt.
Private Enforcement Initiative/Performance Base Component			
Pine Tree Legal Assistance, 88 Federal Street, Portland, ME 04112.	Nan Heald, 207–774–4753	1	325,000.00
Legal Assistance Corporation of Central Massachusetts, 405 Main Street, Worcester, MA 01608.	Jonathan Mannina, 508–752–3718	1	237,933.00
Housing Discrimination Project, 57 Suffolk Street, Holyoke, MA 01040.	Meris Bergquist, 413–539–9796	1	325,000.00
Fair Housing Council of Northern New Jersey, 131 Main Street, Suite 140, Hackensack, NJ 07601.	Lee Porter, 201–489–3552	2	325,000.00
Legal Assistance of Western NY, Inc., 1 West Main Street, Rochester, NY 14614.	Louis Prieto, 585–295–5610	2	277,000.00
South Brooklyn Legal Services, Inc., 105 Court Street, Brooklyn, NY 11201–5658.	Meghan Faux, 718–246–3276	2	325,000.00
Long Island Housing Services, 640 Johnson Avenue, Suite 8, Bohemia, NY 11716–2624.	Michelle Santantonio, 631–567–5111	2	275,000.00
Equal Rights Center, 11 Dupont Circle NW., Suite 450, Washington, DC 20036.	Chip Underwood, 202–370–3228	3	325,000.00
Fair Housing Partnership of Greater Pittsburgh, 2840 Liberty Avenue, Ste. 205, Pittsburgh, PA 15222.	Peter Harvey, 412–391–2535	3	275,000.00
Central Alabama Fair Housing Center, 1817 West Second Street, Montgomery, AL 36106.	Faith Cooper, 334–263–4663	4	274,000.00
Fair Housing Center of Northern Alabama, 1728 3rd Avenue, North, 400 C, Birmingham, AL 35203.	Lila Hackett, 205–324–0111	4	275,000.00
Mobile Fair Housing Center, Inc., P.O. Box 161202, Mobile, AL 36616.	Teresa Bettis, 251–479–1532	4	275,000.00
Metro Fair Housing Services, Inc., 1514 East Cleveland, East Point, GA 30344.	Foster Corbin, 404–221–0874	4	275,000.00
Housing Opportunities Project for Excellence, Inc., 18441 NW 2nd Avenue, Suite 218, Miami Gardens, FL 33169.	Keenya Robertson, 305–651–4673	4	325,000.00
Housing Opportunities Made Equal of Greater Cincinnati, Inc., 2400 Reading Road, Suite 118, Cincinnati, OH 45202–1458.	Elizabeth Brown, 513–721–4663	5	324,359.00
Legal Aid Society of Minneapolis, 430 First Avenue North, Suite 300, Minneapolis, MN 55401.	Lisa Cohen, 612–746–3770	5	325,000.00
Fair Housing Center of Southwest Michigan, 410 E. Michigan, Kalamazoo, MI 49007.	Robert Ells, 269–276–9100	5	302,766.00
Housing Research & Advocacy Center, 3631 Perkins Ave., Suite 3A–2, Cleveland, OH 44114.	Jeffrey Dillman, 216–361–9240	5	325,000.00
Chicago Lawyers' Committee for Civil Rights Under Law, Inc., 100 North LaSalle Street, Suite 600, Chicago, IL 60602.	Jay Readey, 312–630–9744	5	325,000.00
Access Living of Metropolitan Chicago, 115 West Chicago Avenue, Chicago, IL 60654.	Jason Gilmore, 312–640–2185	5	325,000.00
Interfaith Housing Center of the Northern Suburbs, 614 Lincoln Avenue, Winnetka, IL 60093.	Gail Schechter, 847–501–5760	5	235,687.00
John Marshall Law School, 315 S. Plymouth, Chicago, IL 60604.	Michael Seng, 312–987–2397	5	274,958.33
Fair Housing Opportunities dba Fair Housing Center, 432 North Superior, Toledo, OH 43604.	Michael Marsh, 419–243–6163	5	275,000.00
Austin Tenants Council Inc., 1640–B East Second St., Suite 150, Austin, TX 78702.	Katherine Stark, 512–474–7007	6	324,723.00
Metropolitan Fair Housing Council of Oklahoma, Inc., 1500 NE 4th Street, Suite 204, Oklahoma City, OK 73117.	Mary Dulan, 405–232–3247	6	324,808.00
Greater Houston Fair Housing Center, Inc., P.O. Box 292, Houston, TX 77001.	Daniel Bustamante, 713–641–3247	6	325,000.00
Metropolitan St. Louis Equal Housing Opportunity Council, 1027 S. Vandeventer Ave 6th Floor, Saint Louis, MO 63110.	Willie Jordan, 314–448–9063	7	272,614.00
Inland Mediation Board, The City Center Building, 10681 Foothill Blvd., Rancho Cucamor, CA 91730.	Lynne Anderson, 909–984–2254	9	325,000.00
Fair Housing of Marin, 615 B Street, San Rafael, CA 94901.	Nancy Kenyon, 415–457–5025	9	324,997.00
Bay Area Legal Aid, 1735 Telegraph Avenue, Oakland, CA 94612.	Jaclyn Pinero, 510–663–4755	9	325,000.00
Southwest Fair Housing Council, 2030 E Broadway, Tucson, AZ 85719.	Richard Rhey, 520–798–1568	9	274,309.00
California Rural Legal Assistance, Inc., 531 Howard Street, Suite 300, San Francisco, CA 94105.	Austa Wakily, 530–742–7235	9	275,000.00

FY 2011 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amt.
Project Sentinel, Inc., 525 Middlefield, Redwood City, CA 94063.	Ann Marquart, 650–321–6291	9	273,787.67
Northwest Fair Housing Alliance, 35 W. Main, Spokane, WA 99201.	Marley Hochendoner, 509–209–2667	10	325,000.00
Fair Housing Council of Oregon, 506 SW 6th Avenue, Suite 1111, Portland, OR 97204.	Moloy Good, 503–223–8197	10	325,000.00

[FR Doc. 2012–2875 Filed 2–7–12; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Vendor Outreach Workshop for Historically Underutilized Business (HUB) Zone Small Businesses

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The Office of Small and Disadvantaged Business Utilization of the Department of the Interior is hosting a Vendor Outreach Workshop for HUB Zone small businesses that are interested in doing business with the Department. This outreach workshop will review market contracting opportunities for the attendees. Business owners will be able to share their individual perspectives with Contracting Officers, Program Managers and Small Business Specialists from the Department.

DATES: The workshop will be held on March 2, 2012, from 7 p.m. to 9 p.m.

ADDRESSES: The workshop will be held at the Main Interior Auditorium at 1849 C Street NW., Washington, DC 20240. Register online at: *www.doi.gov/osdbu.*

FOR FURTHER INFORMATION CONTACT: Mark Oliver, Director, Office of Small and Disadvantaged Business Utilization, 1951 Constitution Ave. NW., MS–320 SIB, Washington, DC 20240, telephone 1 (877) 375–9927 (Toll-Free).

SUPPLEMENTARY INFORMATION: In accordance with the Small Business Act, as amended by Public Law 95–507, the Department has the responsibility to promote the use of small and small disadvantaged businesses for its acquisition of goods and services. The Department is proud of its accomplishments in meeting its business goals for small, small disadvantaged, 8(a), woman-owned, HUB Zone, and service-disabled veteran-owned businesses. In Fiscal Year 2011, the Department awarded over 50 percent of its $2.7 billion in contracts to small businesses, and in Fiscal Year 2010 also awarded over 50 percent of its $4.4 billion in contracts to small businesses.

This fiscal year, the Office of Small and Disadvantaged Business Utilization is reaching out to our internal stakeholders and the Department's small business community by conducting several vendor outreach workshops. The Department's presenters will focus on contracting and subcontracting opportunities and how small businesses can better market services and products. Over 300 small businesses have been targeted for this event. If you are a small business interested in working with the Department, we urge you to register online at: *www.doi.gov/osdbu* and attend the workshop.

These outreach events are a new and exciting opportunity for the Department's bureaus and offices to improve their support for small business. Additional scheduled events are posted on the Office of Small and Disadvantaged Business Utilization Web site at *www.doi.gov/osdbu.*

Mark Oliver,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 2012–2826 Filed 2–7–12; 8:45 am]
BILLING CODE 4210–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Vendor Outreach Workshop for Small Information Technology (IT) Businesses in the National Capitol Region of the United States

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The Office of Small and Disadvantaged Business Utilization of the Department of the Interior is hosting a Vendor Outreach Workshop for small IT businesses in the National Capitol region of the United States that are interested in doing business with the Department. This outreach workshop will review market contracting opportunities for the attendees. Business owners will be able to share their individual perspectives with Contracting Officers, Program Managers and Small Business Specialists from the Department.

DATES: The workshop will be held on March 30, 2012 from 7 p.m. to 9 p.m.

ADDRESSES: The workshop will be held at the U.S. Department of the Interior Main Auditorium, 1849 C Street NW., Washington, DC 20240. Register online at: *www.doi.gov/osdbu.*

FOR FURTHER INFORMATION CONTACT: Mark Oliver, Director, Office of Small and Disadvantaged Business Utilization, 1951 Constitution Ave. NW., MS–320 SIB, Washington, DC 20240, telephone 1 (877) 375–9927 (Toll-Free).

SUPPLEMENTARY INFORMATION: In accordance with the Small Business Act, as amended by Public Law 95–507, the Department has the responsibility to promote the use of small and small disadvantaged business for its acquisition of goods and services. The Department is proud of its accomplishments in meeting its business goals for small, small disadvantaged, 8(a), woman-owned, HUBZone, and service-disabled veteran-owned businesses. In Fiscal Year 2011, the Department awarded over 50 per cent of its $2.7 billion in contracts to small businesses, and in Fiscal Year 2010 also awarded over 50 percent of its $4.4 billion in contracts to small businesses.

This fiscal year, the Office of Small and Disadvantaged Business Utilization is reaching out to our internal stakeholders and the Department's small business community by conducting several vendor outreach workshops. The Department's presenters will focus on contracting and subcontracting opportunities and how small businesses can better market services and products. Over 300 small businesses have been targeted for this event. If you are a small business interested in working with the Department, we urge you to register online at: *www.doi.gov/osdbu* and attend the workshop.

These outreach events are a new and exciting opportunity for the Department's bureaus and offices to improve their support for small

business. Additional scheduled events are posted on the Office of Small and Disadvantaged Business Utilization Web site at *www.doi.gov/osdbu*.

Mark Oliver,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 2012–2829 Filed 2–7–12; 8:45 am]

BILLING CODE 4210–RK–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX12LR000F60100]

Agency Information Collection Activities: Comment Request for the Industrial Minerals Surveys (40 Forms)

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a revision of a currently approved information collection (1028–0062).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection request (IC) described below. This collection consists of 40 forms. The revision includes adding USGS Form 9–4144–S; transferring USGS Form 9–4142–Q from Information Collection 1028–0065; and modifying the following forms: USGS Form 4004–A, USGS Form 9–4027–A, and USGS Form 9–4035–S. 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 IC. This collection is scheduled to expire on June 30, 2012.

DATES: To ensure that your comments on this IC are considered, we must receive them on or before April 9, 2012.

ADDRESSES: Please submit a copy of your comments to Shari Baloch, Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 807, Reston, VA 20192 (mail); (703) 648–7174 (telephone); (703) 648–7199 (fax); or *smbaloch@usgs.gov* (email). Reference Information Collection 1028–0062 in the subject line.

FOR FURTHER INFORMATION CONTACT: Carleen Kostick at (703) 648–7940 (telephone); *ckostick@usgs.gov* (email); or by mail at U.S. Geological Survey, 985 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192.

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents will use these forms to supply the USGS with domestic production and consumption data of industrial mineral commodities, some of which are considered strategic and critical. This information will be published as chapters in Minerals Yearbook, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

II. Data

OMB Control Number: 1028–0062.
Form Number: Various (40 forms).
Title: Industrial Minerals Surveys.
Type of Request: Revision of a currently approved collection.
Affected Public: Private sector: U.S. nonfuel minerals producers of industrial minerals; Public sector: State and local governments.
Respondent Obligation: Voluntary.
Frequency of Collection: Monthly, quarterly, semiannually, and annually.
Estimated Number of Annual Responses: 19,998.
Annual Burden Hours: 13,584 hours. We expect to receive 19,998 annual responses. We estimate an average of 10 minutes to 2 hours per response.
Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: We have not identified any "non-hour cost" burdens associated with this collection of information.
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 and current expiration date.

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 is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how 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, 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 anytime. 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: February 1, 2012.

John H. DeYoung, Jr.,

Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2012–2839 Filed 2–7–12; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

National Cooperative Geologic Mapping Program (NCGMP) and National Geological and Geophysical Data Preservation Program (NGGDPP) Advisory Committee

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of Audio Conference.

SUMMARY: Pursuant to Public Law 106–148, the NCGMP and NGGDPP Advisory Committee will hold an audio conference call on February 29, 2012, from 2 p.m.–4 p.m. Eastern Standard Time. The Committee will hear updates on progress of the NCGMP toward fulfilling the purposes of the National Geological Mapping Act of 1992; the Federal, State, and education components of the NCGMP; and the National Geological and Geophysical Data Preservation Program.

DATES: February 29, 2012, from 2 p.m.–4 p.m. Eastern Standard Time.

FOR FURTHER INFORMATION CONTACT: For the phone number and access code, please contact Michael Marketti, U.S. Geological Survey, Mail Stop 908, National Center, Reston, Virginia 20192, (703) 648–6976.

SUPPLEMENTARY INFORMATION: Meetings of the National Cooperative Geological Mapping Program and National Geological and Geophysical Data Preservation Program Advisory Committee are open to the Public.

Dated: January 31, 2012.

Kevin T. Gallagher,

Associate Director for Core Science Systems.

[FR Doc. 2012–2840 Filed 2–7–12; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2310–0070–422]

Winter Use Plan, Supplemental Environmental Impact Statement, Yellowstone National Park, Idaho, Montana, and Wyoming

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement for the Winter Use Plan, Yellowstone National Park.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, the National Park Service (NPS) is preparing a supplemental Environmental Impact Statement (SEIS) for a Winter Use Plan for Yellowstone National Park, located in Idaho, Montana and Wyoming.

The preparation of a SEIS is deemed necessary to further the purposes of the National Environmental Policy Act (NEPA). The purposes of NEPA would be furthered by allowing NPS to consider additional data and revise some assumptions in the EIS, prior to making a long-term management decision.

DATES: The National Park Service will accept comments from the public for 30 days from the date that this Notice is published in the **Federal Register**. NPS intends to hold public scoping meetings in Cody, WY, on February 13; Jackson, WY, on February 14; West Yellowstone, MT, on February 15; and Bozeman, MT, on February 16. Each meeting will be held from 6:30 p.m. to 8:30 p.m. Additional information, including meeting locations, can be found at *http://parkplanning.nps.gov/YELL* (click on the link to the 2012 Supplemental Winter Use Plan EIS, then on the "Meeting Notices" link).

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov/YELL* (click on the link to the 2012 Supplemental Winter Use Plan EIS), and at Yellowstone National Park headquarters, Mammoth Hot Springs, WY.

FOR FURTHER INFORMATION CONTACT: Wade Vagias, P.O. Box 168, Yellowstone National Park, WY 82190, (307) 344–2035.

SUPPLEMENTARY INFORMATION: In January 2010, the NPS began public scoping for a long-term plan/EIS to manage winter use at Yellowstone National Park. A Draft EIS was released in May 2011 for a 60-day review and comment period, with NPS receiving more than 59,000 comments. Some of these comments raised additional questions as to long-term effects and options for winter use.

In order to make a reasoned, sustainable long-term decision, the NPS determined it needed additional time to update its analyses. As a result, in November 2011, NPS released a Final EIS with a preferred alternative applicable only for the 2011/2012 winter season, for which the park would operate under the same rules and restrictions in place during the previous two seasons. In December 2011, a Record of Decision and Final Regulation implementing the preferred alternative were issued. After the end of the current winter use season on March 15, 2012, no motorized oversnow vehicle use can be allowed in the park unless a new regulation is issued.

A SEIS is needed at this time so that NPS can consider additional information. Substantial new issues to be addressed include: air quality and sound modeling, adaptive management, opportunities for non-commercially guided access, best available technology for snowcoaches, and the operation of Sylvan Pass.

The purpose and need for action remain the same for the SEIS as they were in the Final EIS. Although the general scope of analysis remains the same as the Final EIS, NPS expects that the SEIS will focus primarily on the substantial new information and issues that were raised during the Draft EIS comment period, as well as any other substantial new information or issues that are raised. Based upon impact analysis and public comments received on the Draft EIS, NPS anticipates removing Alternatives 3 and 6, as presented in the Final EIS, from the reasonable range of alternatives that will be analyzed in detail in the SEIS. NPS anticipates that there may also be minor changes to the remaining alternatives, as presented in the Final EIS. NPS intends to evaluate at least one alternative that manages snowmobile and snowcoach use based on sound events, rather than numbers alone. The no-action alternative will remain the same as it was in the Final EIS. Under that alternative, no motorized oversnow vehicle use would be allowed in the park after March 15, 2012. A copy of the Final EIS and additional information regarding the preliminary range of alternatives and the objectives of the SEIS can be found at *http://parkplanning.nps.gov/YELL* (click on the link to the 2012 Supplemental Winter Use Plan EIS).

As stated above, NPS received more than 59,000 comments on the Draft EIS. Many of those comments were addressed in the Final EIS, and the NPS has committed to addressing the remaining comments in this SEIS. Therefore, there is no need to submit duplicate or similar comments during this scoping period. However, if you wish to comment on the purpose, need, objectives, alternatives, or on any other issues associated with the plan, you may submit your comments by any one of several methods.

You are encouraged to comment via the Internet at *http://parkplanning.nps.gov/YELL* (click on the link to the 2012 Supplemental Winter Use Plan EIS). You may also comment by mail to Yellowstone National Park, Winter Use Supplemental EIS, P.O. Box 168, Yellowstone NP, WY 82190. In addition, you may hand deliver your comments to the Management Assistant's Office, Headquarters Building, Mammoth Hot Springs, Yellowstone National Park, WY. Finally, you may submit comments at any of the public scoping meetings.

Comments will not be accepted by fax, email, or in any other way than those specified above. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. 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.

Dated: January 6, 2012.

John Wessels,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. 2012–2876 Filed 2–7–12; 8:45 am]

BILLING CODE 4312–CT–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SER–BICY–1220–9207; 5120–SZM]

Meetings of the Big Cypress National Preserve Off-Road Vehicle Advisory Committee

AGENCY: Department of the Interior, National Park Service, Off-road Vehicle (ORV) Advisory Committee.

ACTION: Notice of meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub.

L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, 10), notice is hereby given of the meetings of the Big Cypress National Preserve ORV Advisory Committee for 2012.

DATES: The Committee will meet on the following dates:

Thursday, February 16, 2012, 3:30–8 p.m.

Tuesday, May 15, 2012, 3:30–8 p.m.

Thursday, August 30, 2012, 3:30–8 p.m.

Wednesday, November 7, 2012, 3:30–8 p.m.

ADDRESSES: All meetings will be held at the Big Cypress Swamp Welcome Center, 33000 Tamiami Trail East, Ochopee, Florida. Written comments and requests for agenda items may be submitted electronically on the Web site *http://www.nps.gov/bicy/parkmgmt/orv-advisory-committee.htm*. Alternatively, comments and requests may be sent to: Superintendent, Big Cypress National Preserve, 33100 Tamiami Trail East, Ochopee, FL 34141–1000, Attn: ORV Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Pedro Ramos, Superintendent, Big Cypress National Preserve, 33100 Tamiami Trail East, Ochopee, Florida 34141–1000; (239) 695–1103, or go to the Web site *http://park planning.nps.gov/projectHome.cfm?parkId=352&projectId=20437*.

SUPPLEMENTARY INFORMATION: The Committee was established (**Federal Register,** August 1, 2007, pp. 42108–42109) pursuant to the Preserve's 2000 *Recreational Off-road Vehicle Management Plan* and the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix) to examine issues and make recommendations regarding the management of off-road vehicles (ORVs) in the Preserve. The agendas for these meetings will be published by press release and on the *http://park planning.nps.gov/projectHome.cfm?parkId=352&projectId=20437* Web site. The meetings will be open to the public, and time will be reserved for public comment. Oral comments will be summarized for the record. If you wish to have your comments recorded verbatim, you must submit them in writing. 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.

Pedro Ramos,

Superintendent, Big Cypress National Preserve.

[FR Doc. 2012–2873 Filed 2–7–12; 8:45 am]

BILLING CODE 4310–V6–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–702 (Third Review)]

Ferrovanadium and Nitrided Vanadium From Russia; Scheduling of a Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review 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:* February 2, 2012.

FOR FURTHER INFORMATION CONTACT: Joanna Lo ((202) 205–1888), 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 this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On December 5, 2011, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (76 FR 79214, December 21, 2011). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the review and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the review will be placed in the nonpublic record on June 1, 2012, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on June 21, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 14, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations

should attend a prehearing conference to be held at 9:30 a.m. on June 18, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions. Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is June 12, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is June 29, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before June 29, 2012. On July 30, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 1, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's web site at *http://edis.usitc.gov*.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (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.

Authority: This review is 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: February 2, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–2823 Filed 2–7–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–805]

Certain Devices for Improving Uniformity Used in a Backlight Module and Components Thereof and Products Containing Same; Determination To Review and Modify Initial Determination To Amend Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 11) granting a motion by complainants Industrial Technology Research Institute of Hsinchu, Taiwan and ITRI International Inc. of San Jose, California (collectively "ITRI") to amend the complaint to add as respondents LG Display Co., Ltd. of Seoul, South Korea and LG Display America, Inc. of San Jose, California (collectively "LG Display"). On review, the Commission modifies the ID's grant of ITRI's motion to clarify that both the complaint and the notice of investigation are amended.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or 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 at *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 instituted this investigation on September 14, 2011, based on a complaint filed by ITRI. 76 FR 56796–97 (Sept. 14, 2011). The complaint alleges violations of Section 337 of the Tariff Act of 1930, as amended, 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 components thereof and products containing same by reason of infringement of certain claims of U.S. Patent No. 6,883,932. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named as respondents LG Corporation of Seoul, South Korea; LG Electronics, Inc. of Seoul, South Korea; and LG Electronics, U.S.A., Inc. of Englewood Cliffs, New Jersey (collectively "the LGE Respondents"). The Office of Unfair Import Investigation was named as a participating party.

On December 21, 2011, ITRI filed a motion for leave to amend the complaint to add LG Display as respondents in this investigation. On January 3, 2012, the LGE Respondents filed an opposition to the motion. Also on January 3, 2012, the Commission investigative attorney filed a response supporting the motion and characterizing it as a motion to amend the complaint and the notice of investigation.

On January 19, 2012, the ALJ issued the subject ID, granting complainants' motion to amend the complaint pursuant to Commission Rule 210.14(b)(1) (19 CFR 210.14(b)(1)). No petitions for review of this ID were filed.

The Commission has determined to review the ID, and on review, to modify the ID's grant of ITRI's motion to clarify that, while the ID grants only ITRI's motion to amend the complaint, because the LG Display respondents are added to the investigation, the notice of investigation must also be amended in addition to the complaint.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.44 of the Commission's Rules of Practice and Procedure (19 CFR 210.44).

Issued: February 2, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–2824 Filed 2–7–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Public Availability of Department of Justice FY 2011 Service Contract Inventory

AGENCY: Justice Management Division, Department of Justice.

ACTION: Notice of public availability of FY 2011 Service Contract inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Department of Justice is publishing this notice to advise the public of the availability of the FY 2011 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on December 19, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventory-guidance.pdf.* The Department of Justice has posted its inventory and a summary of the inventory on the Department of Justice Senior Procurement Executive homepage at the following link: *http://www.justice.gov/jmd/pe/service-contract-inventory.html.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Dennis R. McCraw in the Justice Management Division, Management and Planning Staff, Procurement Policy and Review Group at (202) 616–3754 or *dennis.mccraw@usdoj.gov.*

Michael H. Allen,

Deputy Assistant Attorney General, Policy Management and Planning, US Department of Justice, Justice Management Division.

[FR Doc. 2012–2793 Filed 2–7–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,291]

RR Donnelley & Sons, Inc., Premedia Services Division, Including On-Site Leased Workers From Kelly Services Seattle, WA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated December 14, 2011, a State Workforce Official requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of RR Donnelley & Sons, Inc., Premedia Services Division, Seattle, Washington (subject firm). The determination was issued on November 17, 2011. The Department's Notice of determination was published in the **Federal Register** on December 6, 2011 (76 FR 76186). The workers were engaged in activities related to the production of digital photography, printed proofs and digital files.

The initial investigation resulted in a negative determination based on the findings that the subject firm did not import digital photography, printed proofs and digital files (or like or directly competitive articles) in 2009, 2010, or January through June 2011. Surveys of the subject firm's major declining customers revealed no imports of digital photography, printed proofs and digital files (or like or directly competitive articles) during the relevant period.

The investigation also revealed that a shift in production by the subject firm did not contribute importantly to the separations at the subject firm, and that the subject firm is neither a Supplier nor a Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

In the request for reconsideration, the petitioner supplied new information regarding a possible shift to/acquisition from a foreign country by the subject firm in the production of articles like or directly competitive with the digital photography, printed proofs and digital files produced by the subject workers.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the petitioning worker group at the subject firm meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 27th day of January 2012.

Del Min Amy Chen

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2889 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,511]

Specialty Bar Products Company,a Subsidiary of Doncasters, Inc., Blairsville, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated January 12, 2012, three workers requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Specialty Bar Products Company, a subsidiary of Doncasters, Inc., Blairsville, Pennsylvania (subject firm). The determination was issued on December 16, 2011. The Department's Notice of determination was published in the **Federal Register** on December 29, 2011 (76 FR 81989). The workers were engaged in activities related to the production of pins, bushings, and gun blanks.

The initial investigation resulted in a negative determination based on the findings that the subject firm did not shift the production of pins, bushings, gun blanks (or like or directly competitive articles) to a foreign country or acquire the production of such articles from a foreign country. The investigation also revealed that neither

the firm nor their customers imported articles like or directly competitive with those produced by the subject firm.

The investigation also revealed that with respect to Section 222(b)(2) of the Act, the subject firm is neither a Supplier nor Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

In the request for reconsideration, the petitioner supplied new information regarding additional customer information. The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the petitioning worker group at the subject firm meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 25th day of January, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2885 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request (ICR) for the Impact Evaluation of the YouthBuild Program; New Collection

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL or Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that required data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by the Office of Management and Budget (OMB) under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 5 CFR 1320.5(a) and 1320.6.

A copy of the proposed ICR can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the addresses section below on or before April 9, 2012.

ADDRESSES: Send comments to Eileen Pederson, U.S. Department of Labor, Employment and Training Administration, Office of Policy Development and Research, 200 Constitution Avenue NW., Frances Perkins Bldg., Room N–5641, Washington, DC 20210. Telephone number (202) 693–3647 (this is not a toll-free number). Email address: *Pederson.eileen@dol.gov.* Fax number: (202) 693–2766 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Impact Evaluation of the YouthBuild Program is a seven-year, experimental design evaluation, funded by the Department's Employment and Training Administration and the Corporation for National and Community Service (CNCS). YouthBuild is a youth and community development program that addresses several core issues facing low-income communities: Youth education, employment, criminal behavior, social and emotional development and affordable housing. The program primarily serves high school dropouts and focuses on helping them attain a high school diploma or general educational development certificate, and teaching them construction skills geared toward career placement. The evaluation will measure core program participant outcomes including educational attainment, postsecondary planning, employment, earnings, delinquency and involvement with the criminal justice system, and youth social and emotional development. The evaluation represents an important opportunity for DOL and CNCS to add to the growing body of knowledge about the impacts of "second chance" programs for youth who have dropped out of high school. Compared to peers who remain in school, high school dropouts are more likely to be disconnected from school and work, be incarcerated, be unmarried, and have children outside of marriage. The target population for the program, and correspondingly the study, is out-of-school youth, aged 16–24, from low-income families or in foster care and who are offenders, migrants, disabled or children of incarcerated parents.

The evaluation of the YouthBuild program will address the following research questions:

- *Operation:* How is YouthBuild designed in each participating site? What are the key implementation practices that affect how the program operates? How does the local context affect program implementation and the services available to members of the control group?
- *Participation:* What are the characteristics of youth who enroll in the study? How are these characteristics shaped by YouthBuild recruitment and screening practices?
- *Impacts:* What are YouthBuild's impacts on educational attainment, planning, and aspirations? What are YouthBuild's impacts on employment, earnings, and job characteristics? What are YouthBuild's impacts on crime and delinquency? What are the program's impacts on social-emotional development, identity development, and self-regulation?
- *Costs:* How does the net cost per participant compare with the impacts the program generates?

The contract to conduct an independent, rigorous evaluation was awarded in June 2010. MDRC, the prime contractor, is working with Mathematica Policy Research and Social Policy Research Associates, to design and implement the evaluation, which will continue until 2017. The evaluation consists of an implementation component, an impact component and a cost-effectiveness component. The entire universe of 2011 DOL and CNCS-funded YouthBuild grantees will participate in the implementation component of the evaluation. Of the universe of grantees, the study team will recruit 84 randomly-selected grantees

(60 DOL-funded sites and 24 sites that are not funded by DOL but do receive funding from CNCS) for the study's impact component. DOL will seek to enroll 3,465 eligible participants in those sites into the study. Study participants will be randomly assigned to either the treatment group, which will be eligible for YouthBuild services, or to the control group which will not be eligible. Follow-up data will be collected from all study participants for up to four years after random assignment.

This data collection request includes qualitative information about program operations and cost data to be collected during the proposed site visits to the 84 sites participating in the impact component of the evaluation. These visits will include classroom observations to assess the quality of instruction, youth focus groups, semi-structured in-depth interviews with program staff and collection of cost data to ascertain the cost of the program.

At this time, clearance is requested for the site visit data collection instruments.

II. Review Focus

Currently, the Department is soliciting comments concerning the above data collection for the Impact Evaluation of the YouthBuild Program. Comments are requested to:

- 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 information collection on those who are to respond, including 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.

III. Current Actions

At this time, ETA is requesting clearance for the data collection instruments to be used during the proposed site visits to a select group of 2011 DOL and CNCS-funded YouthBuild grantees. In addition, ETA is requesting a waiver of the 60-day notice requirement for the participant follow-up survey package.

Agency: Employment and Training Administration.

Type of Review: New information collection request.

OMB Number: 1205–0NEW.

Affected Public: Disadvantaged youth and DOL- and CNCS-funded YouthBuild Programs.

Cite/Reference/Form/etc: Workforce Investment Act, Section 172.

For the Site Visit Interview Protocols:

Frequency: Once.

Total Respondents: 1,008 respondents (12 respondents in each of 84 YouthBuild sites).

Average Time per Response: 60 minutes per respondent (1 hour).

Estimated Total Burden Hours: 1,008 hours (= 1,008 respondents × 1 hour).

For the Cost Data Collection Worksheet:

Frequency: Once.

Total Respondents: 84 respondents (one respondent in each of 84 YouthBuild sites).

Average Time per Response: 120 minutes per respondent (2 hours).

Estimated Total Burden Hours: 168 hours (= 84 respondents × 2 hours).

For the Youth Focus Group Questionnaire:

Frequency: Once.

Total Respondents: 231 respondents (an average of 5.5 respondents in each of 42 YouthBuild sites, one-half of the sites participating in the evaluation).

Average Time per Response: 60 minutes per respondent (1 hour).

Estimated Total Burden Hours: 231 hours (= 231 respondents × 1 hour).

For the Individual Youth Questionnaire:

Frequency: Once.

Total Respondents: 84 respondents (two in each of 42 YouthBuild sites, one-half of the sites participating in the evaluation).

Average Time per Response: 45 minutes per respondent (.75 hour).

Estimated Total Burden Hours: 63 hours (= 84 respondents × 45 minutes ÷ 60 minutes). Note that, due to rounding, the total amounts may differ from the sum of the components.

Comments submitted in response to this request will be summarized and/or included in the request for OMB approval; they will also become a matter of public record.

Signed: at Washington, DC, this 2nd day of February, 2012.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2012–2850 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,396]

GE Oil & Gas Operations, LLC Including On-Site Leased Workers From Adecco, Argus Technical, Inc., Fox Valley Metrology URS Corp. and CompuCom Oshkosh, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 28, 2011, applicable to workers of GE Oil & Gas Operations, LLC, including on-site leased workers from Adecco and Argus Technical, Inc., Oshkosh, Wisconsin. The workers are engaged in activities related to the production of high speed reciprocating and centrifugal compressors primarily used in the oil and gas industry. The notice was published in the **Federal Register** on October 20, 2011 (76 FR 65214).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. New information shows that workers leased from Fox Valley Metrology, URS Corp. and CompuCom were employed on-site at the Oshkosh, Wisconsin location of GE Oil & Gas Operations, LLC. The Department has determined that these workers were sufficiently under the control of GE Oil & Gas Operations, LLC to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by increased company imports of high speed reciprocating and centrifugal compressors primarily used in the oil and gas industry.

Based on these findings, the Department is amending this certification to include workers leased from Fox Valley Metrology, URS Corp. and CompuCom working on-site at the Oshkosh, Wisconsin location of the subject firm.

The amended notice applicable to TA–W–80,396 is hereby issued as follows:

All workers of GE Oil & Gas Operations, LLC, including on-site leased workers from Adecco, Argus Technical, Inc., Fox Valley

Metrology, URS Corp. and CompuCom, Oshkosh, Wisconsin, who became totally or partially separated from employment on or after August 26, 2010, through September 28, 2013, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of January 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2890 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,081]

General Motors Vehicle Manufacturing, Formerly Known as General Motors Corporation, Shreveport Assembly Plant, Including On-Site Leased Workers From Aerotek, Kelly Services and Voith Industrial Services, Inc., Formerly Known as Premier Manufacturing Support Services and Shreveport Ramp Services, LLC Shreveport, LA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 27, 2010, applicable to workers of General Motors Vehicle Manufacturing, formerly known as General Motors Corporation, Shreveport Assembly Plant, including on-site leased workers from Aerotek and Kelly Services, Shreveport, Louisiana. The workers are engaged in the production of the Chevrolet Colorado, GMC Canyon and Hummer H–3 and H–3T vehicles. The notice was published in the **Federal Register** on August 13, 2010 (75 FR 49530). The notice was amended on April 4, 2011 to include on-site leased workers from Voith Industrial Service, Inc., formerly known as Premier Manufacturing Support Services. The amended notice was published in the **Federal Register** on April 14, 2011 (76 FR 21035)

At the request of a petitioner, the Department reviewed the certification for workers of the subject firm. The company reports that workers leased from Shreveport Ramp Services, LLC were employed on-site at the Shreveport, Louisiana location of General Motors Vehicle Manufacturing, formerly known as General Motors Corporation, Shreveport Assembly Plant. The Department has determined that these workers were sufficiently under the control of General Motors Vehicle Manufacturing, formerly known as General Motors Corporation, Shreveport Assembly Plant to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Shreveport Ramp Services, LLC working on-site at the Shreveport, Louisiana location of General Motors Vehicle Manufacturing, formerly known as General Motors Corporation, Shreveport Assembly Plant.

The amended notice applicable to TA–W–74,081 is hereby issued as follows:

All workers of General Motors Vehicle Manufacturing, formerly known as General Motors Corporation, Shreveport Assembly Plant, including on-site leased workers from Aerotek, Kelly Services and Voith Industrial Services, Inc., formerly known as Premier Manufacturing Support Services and Shreveport Ramp Services, LLC, Shreveport, Louisiana, who became totally or partially separated from employment on or after August 28, 2010, through July 27, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 31st day of January 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2892 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,089; TA–W–75,089A]

Startek USA, Inc. Alexandria, LA; Startek USA, Inc., Collinsville, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 26, 2011, applicable to workers of StarTek USA, Inc., Alexandria, Louisiana. The workers are engaged in the supply of call center services related to customer care and technical support. The Department's Notice was published in the **Federal Register** on February 10, 2011 (76 FR 7587).

On its own motion, the Department reviewed the certification for workers of the subject firm.

New information shows that the Collinsville, Virginia location of StarTek USA, Inc. supplied call center services such as sales and technical support for outside customers of the subject firm, and supports and operates in conjunction with the Alexandria, Louisiana location. Both locations have experienced worker separations during the relevant time period, a decline in customer sales, and were impacted by an increase in imports of call center services to vendors in foreign countries.

Accordingly, the Department is amending the certification to include workers of StarTek USA, Inc., Collinsville, Virginia.

The amended notice applicable to TA–W–75,089 is hereby issued as follows:

All workers of StarTek USA, Inc., Alexandria, Louisiana (TA–W–75,089) and StarTek USA, Inc., Collinsville, Virginia (TA–W–75,089A), who became totally or partially separated from employment on or after January 10, 2010 through January 26, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 27th day of January, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2888 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,292]

PHB Die Casting a Subsidiary of PHB, Inc., Including On-Site Leased Workers From Career Concepts and Volt Services, Including a Contract Worker From Burns Industrial Group (BIG INC) Fairview, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26

U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 19, 2008, applicable to workers of PHB Die Casting, a subsidiary of PHB, Inc., including on-site leased workers from Career Concepts and Volt Services, Fairview, Pennsylvania. The notice was published in the **Federal Register** on January 14, 2009 (74 FR 2136).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of die castings.

New information shows that a worker from Burns Industrial Group (BIG Inc) was contracted to provide various sales services at the Fairview, Pennsylvania location of PHB Die Casting, a subsidiary of PHB, Inc. The Department has determined that this worker was sufficiently under the control of the subject firm to be considered a contact worker.

Based on these findings, the Department is amending this certification to include a worker from Burns Industrial Group (BIG Inc) who was contracted by the Fairview, Pennsylvania location of PHB Die Casting, a subsidiary of PHB, Inc.

The amended notice applicable to TA–W–64,292 is hereby issued as follows:

All workers of PHB Die Casting, a subsidiary of PHB, Inc., Fairview, Pennsylvania, including on-site leased workers from Career Concepts and Volt Services, and including a contract worker from Burns Industrial Group (BIG Inc), who became totally or partially separated from employment on or after October 27, 2007, through December 19, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of January 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2887 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *January 23, 2012 through January 27, 2012.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the Following Must Be Satisfied

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the Following Must Be Satisfied

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
80,375	Newton Falls Fine Paper Company LLC, Scotia Newton, Inc	Newton Falls, NY	August 15, 2010.
81,034	Roseburg Forest Products Louisville MS Particleboard, Composite Panel Division.	Louisville, MS	February 13, 2010.
81,057	HarperCollins Publishers, Distribution Operations Division, Keystone Staffing, One Source Staff, etc.	Williamsport, PA	February 13, 2010.
81,198	Andersen Corporation	Bayport, MN	February 13, 2010.
81,204	Cooper Tire & Rubber Company	Findlay, OH	May 19, 2011.
81,204A	Cooper Tire & Rubber Company, Alternative Mgmt Resources, Time Staffing, Inc., etc.	Findlay, OH	February 13, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
80,433	Werner Company, Merced Division, a Subsidiary of New Werner Holding Co., Placement, etc.	Merced, CA	September 12, 2010.
80,465	JDS Uniphase Corporation, Leased Workers from Source Right Solutions.	Santa Rosa, CA	February 13, 2010.
81,028	Thomasville Furniture Industries, Inc., Furniture Brands, Lenoir Case Goods Plant # 25, Onin Staffing.	Lenoir, NC	February 13, 2010.
81,029	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	St. Louis, MO	February 13, 2010.
81,029A	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Hodgkins, IL	February 13, 2010.
81,029B	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Peoria, IL	February 13, 2010.
81,029C	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Davenport, IA	February 13, 2010.
81,029D	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Alexandria, LA	February 13, 2010.
81,029E	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Cincinnati, OH	February 13, 2010.
81,029F	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Biddeford, ME	February 13, 2010.
81,029G	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Ogden, UT	February 13, 2010.
81,029H	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Tulsa, OK	February 13, 2010.
81,029I	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Emporia, KS	February 13, 2010.
81,029J	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Indianapolis, IN	February 13, 2010.
81,029K	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Philadelphia, PA	February 13, 2010.

TA–W No.	Subject firm	Location	Impact date
81,029L	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Northwood, OH	February 13, 2010.
81,029M	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Rocky Mount, NC	February 13, 2010.
81,029N	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Knoxville, TN	February 13, 2010.
81,029O	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Memphis, TN	February 13, 2010.
81,029P	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Jacksonville, FL	February 13, 2010.
81,029Q	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Columbus, GA	February 13, 2010.
81,029R	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Orlando, FL	February 13, 2010.
81,029S	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Sacramento, CA	February 13, 2010.
81,029T	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Billings, MT	February 13, 2010.
81,029U	Hostess Brands, Inc., Interstate Brands Corp., Resources Global Int'l, Ranstad Finance, etc.	Lakewood, WA	February 13, 2010.
81,045	Aerotek Inc., Working On-Site at Dow Jones Corporation	Princeton, NJ	February 13, 2010.
81,063	Cole Hersee Distribution Center, Aerotek and VIP Staffing	Schertz, TX	February 13, 2010.
81,068	ET Publishing International, LLC., Cosmopolitan Continental Department.	Virginia Gardens (Miami), FL	February 13, 2010.
81,078	The Genie Company, A Division of Overhead Door Corporation.	Alliance, OH	February 13, 2010.
81,090	Lattice Semiconductor Corporation, Information Technology Department, Contract Wkrs from Igate Technologies.	Hillsboro, OR	February 13, 2010.
81,090A	Lattice Semiconductor Corporation, Information Technology Department, Contract Wkrs from Igate Technologies.	San Jose, CA	February 13, 2010.
81,090B	Lattice Semiconductor Corporation, Information Technology Department.	Bethlehem, PA	February 13, 2010.
81,113	The Gillette Company, Procter & Gamble Company, Leased Workers from Adecco and Versatex.	Boston, MA	November 20, 2011.
81,176	Bombardier Transportation (Holdings) USA, Inc., Systems, LLE and RCS, Adecco, Synergy Staffing, etc.	Pittsburgh, PA	February 13, 2010.
81,183	Avalon Laboratories, LLC	Rancho Dominguez, CA	February 13, 2010.
81,203	American Institute of Physics, Access Staffing and Office Team.	Melville, NY	November 26, 2011.
81,203A	American Institute of Physics; Off-Site Workers in College Park, MD, Reporting to Melville, NY.	College Park, MD	February 13, 2010.
81,222	CPS Color Equipment, Inc., Including on-site leased workers from Pionear and Integra Staffing.	Concord, NC	February 13, 2010.
81,239	The Fechheimer Brothers Company, Berkshire Hathaway, Grantsville Mfg. Plant.	Grantsville, MD	February 13, 2010.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,242	Johnson Controls, Inc., dba Hoover Universal, On-Site Leased Workers from Kelly Services.	Shreveport, LA	January 13, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
81,122	Siemens IT Solutions and Services, Siemens Energy, Renewables-Energy Lab Division.	Pittsburgh, PA	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
80,402	Richline Group Inc	New York, NY	
80,424	Manistique Papers, Inc	Manistique, MI	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
81,102	Samsung Information Systems America, Inc	San Jose, CA	
81,102A	Samsung Information Systems America, Inc	Irvine, CA	
81,159	Transcom Worldwide North America	Lafayette, LA	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
80,232	StarTek USA, Inc	Collinsville, VA	

I hereby certify that the aforementioned determinations were issued during the period of *January 23, 2012 through January 27, 2012.* These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated: February 1, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2886 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 21, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 21, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 31st day of January 2012.

Michael Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[18 TAA petitions instituted between 1/16/12 and 1/20/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81241	Flextronics International USA, Inc. (Workers)	Charlotte, NC	01/17/12	01/16/12
81242	Johnson Controls, Inc. (State/One-Stop)	Shreveport, LA	01/17/12	01/13/12
81243	Goodrich Lighting (Interiors) (Workers)	Oldsmar, FL	01/17/12	01/10/12

APPENDIX—Continued

[18 TAA petitions instituted between 1/16/12 and 1/20/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81244	IBM Corporation (Worker)	Poughkeepsie, NY	01/18/12	01/17/12
81245	Interlake Mecalux, Inc. (State/One-Stop)	Sumter, SC	01/18/12	01/17/12
81246	St. Joseph's Medical Center—Peace Health (State/One-Stop).	Bellingham, WA	01/18/12	01/13/12
81247	Quad Graphics (Union)	Dickson, TN	01/18/12	01/17/12
81248	Burke Hosiery Mills, Inc. (Company)	Hickory, NC	01/18/12	01/17/12
81249	Jump Clothing, Inc. (State/One-Stop)	Los Angeles, CA	01/18/12	01/17/12
81250	Schneider Electric (Company)	LaVergne, TN	01/18/12	01/11/12
81251	Isaacson's Structural Steel (State/One-Stop)	Berlin, NH	01/19/12	01/12/12
81252	Littelfuse, Inc. (Company)	Chicago, IL	01/19/12	01/16/12
81253	Sears Holding Corporation (Workers)	Hoffman Estates, IL	01/20/12	01/10/12
81254	BT North America (State/One-Stop)	Atlanta, GA	01/20/12	12/20/11
81255	Oakley Sub Assembly (State/One-Stop)	Shreveport, LA	01/20/12	01/13/12
81256	Verizon Business Networks, Inc. (State/One-Stop)	Ashburn, VA	01/20/12	01/19/12
81257	World of Flowers, Inc. (Company)	Oxford, AL	01/20/12	01/18/12
81258	DTC Communications, Inc. (Company)	Nashua, NH	01/20/12	01/19/12

[FR Doc. 2012–2891 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Negative Determinations on Reconsideration Under the Trade Adjustment Assistance Extension Act of 2011 Regarding Eligibility To Apply for Worker Adjustment Assistance 2002 Reopened—Previously Denied Determinations

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) (Act) the Department of Labor (Department) herein presents summaries of negative determinations on reconsideration regarding eligibility to apply for Trade Adjustment Assistance for workers by case (TA–W–) number regarding negative determinations issued during the period of February 13, 2011 through October 21, 2011. Notices of negative determinations were published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271). As required by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), all petitions that were denied during this time period were automatically reopened. The reconsideration investigation revealed that the following workers groups have not met the certification criteria under the provisions of TAAEA.

After careful review of the additional facts obtained, the following negative determinations on reconsideration have been issued.

TA–W–80,374; Stream Global Services, Beaverton, OR

TA–W–80,407; CHEP USA, Orlando, FL

I hereby certify that the aforementioned negative determinations on reconsideration were issued on January 25, 2012 through January 27, 2012. These determinations are available on the Department's Web site at *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated: January 31, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2868 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

2002 Reopened—Previously Denied Determinations; Notice of Revised Denied Determinations on Reconsideration Under the Trade Adjustment Assistance Extension Act of 2011 Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) (Act) the Department of Labor (Department) herein presents summaries of revised determinations on reconsideration regarding eligibility to apply for Trade Adjustment Assistance for workers by case (TA–W–) number regarding negative determinations issued during the period of *February 13, 2011 through October 21, 2011.* Notices of negative determinations were published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271). As required by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), all petitions that were denied during this time period were automatically reconsidered. The reconsideration investigation revealed that the following workers groups have met the certification criteria under the provisions of TAAEA.

After careful review of the additional facts obtained, the following revised determinations on reconsideration have been issued.

TA–W–80,192; Sykes Enterprises, Inc., Morganfield, KY: May 20, 2010

I hereby certify that the aforementioned revised determinations on reconsideration were issued on *January 27, 2012.* These determinations are available on the Department's Web site at *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated January 31, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–2867 Filed 2–7–12; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting Notice

DATE AND TIME: The Legal Services Corporation's Governance and Performance Committee will meet February 15, 2012. The meeting will

commence at 4:30 p.m., Eastern Standard Time, and will continue until the conclusion of the Committee's agenda.

LOCATION: F. William McCalpin Conference Center, Legal Services Corporation Headquarters Building, 3333 K Street, NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below but are asked to keep their telephones muted to eliminate background noises. From time to time the presiding Chair may solicit comments from the public.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1 (866) 451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately "MUTE" your telephone.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED: 1. Approval of Agenda.

2. Approval of minutes of the Committee's meeting of January 20, 2012.

3. Discussion of the LSC President's self-evaluation for 2011.

4. Discussion of Committee members' self-evaluations for 2011 and the Committee's goals for 2012.

5. Public comment.

6. Consider and act on other business.

7. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the American's with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: February 6, 2012.

Victor M. Fortuno,

Vice President & General Counsel.

[FR Doc. 2012–3032 Filed 2–6–12; 4:15 pm]

BILLING CODE 7050–01–P

OFFICE OF MANAGEMENT AND BUDGET

2011 Statutory Pay-As-You-Go Act Annual Report

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

SUMMARY: This report is being published as required by the Statutory Pay-As-You-Go (PAYGO) Act of 2010, 2 U.S.C. 931 *et seq.* The Act requires that OMB issue (1) an annual report as specified in 2 U.S.C. 934(a) and (2) a sequestration order, if necessary.

FOR FURTHER INFORMATION CONTACT: Patrick Locke. (202) 395–3945.

SUPPLEMENTARY INFORMATION: This report and additional information about the PAYGO Act can be found at *http://www.whitehouse.gov/omb/paygo_default.*

Authority: 2 U.S.C. 934.

David Rowe,

Deputy Assistant Director for Budget.

This Report is being published pursuant to section 5 of the Statutory Pay-As-You-Go (PAYGO) Act of 2010, Public Law 111–139, 124 Stat. 8, 2 U.S.C. 934, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, within 14 working days after the end of a Congressional session.

This Report describes the budgetary effects of all legislation enacted during the first session of the 112th Congress and presents the 5-year and 10-year PAYGO scorecards maintained by OMB. Because neither the 5-year nor 10-year scorecard shows a debit for the budget year, which for purposes of this Report is fiscal year 2012,[1] a sequestration order under subsection 5(b) of the PAYGO Act, 2 U.S.C. 934(b), is not necessary.

There was no legislation designated as emergency legislation under section 4(g) of the PAYGO Act, 2 U.S.C. 933(g) enacted during the first session of the 112th Congress. In addition, the scorecards include no current policy adjustments made under section 4(c) of the PAYGO Act, 2 U.S.C. 933(c), for legislation enacted during the first session of the 112th Congress. For these reasons, the Report does not contain any information about emergency legislation or a description of any current policy adjustments.

[1] References to years on the PAYGO scorecards are to fiscal years.

I. PAYGO Legislation With Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues; and appropriations legislation that affects direct spending in the years beyond the budget year or affects revenues in any year.[2] For a more complete description of the Statutory PAYGO Act, see the OMB Web site, *http://www.whitehouse.gov/omb/paygo_description,* and Chapter 14, "Budget Process," of the *Analytical Perspectives* volume of the 2012 Budget, *http://www.gpoaccess.gov/usbudget/fy12/index.html.*

The 5-year PAYGO scorecard shows that PAYGO legislation enacted in the first session of the 112th Congress was estimated to have PAYGO budgetary effects that increase the deficit by $1,880 million each year from 2012 through 2016. [3] However, balances carried over from the second session of the 111th Congress result in net savings being shown on the 5-year scorecard for years 2012 through 2015. The 10-year PAYGO scorecard shows that PAYGO legislation for this session of Congress decreased the deficit by $710 million each year from 2012 through 2021. Balances from the prior session further increase the savings in years 2012 through 2020.

In the first session of the 112th Congress, 33 laws were enacted that were determined to constitute PAYGO legislation. Of the 33 enacted PAYGO laws, 6 were estimated to have PAYGO budgetary effects (costs or savings) in excess of $500 million over one or both of the 5-year or 10-year PAYGO windows. These acts were:

[2] Provisions in appropriations acts that affect budget authority for direct spending in the years beyond the budget year (also known as "outyears") or affect revenues in any year are scorable for the purposes of the PAYGO scorecards except if the provisions produce outlay changes that net to zero over the current year, budget year, and the four subsequent years. As specified in section 3 of the Statutory PAYGO Act, off-budget effects are not counted as budgetary effects. Off-budget effects refer to effects on the Social Security trust funds (Old-Age and Survivors Insurance and Disability Insurance) and the Postal Service.

[3] As provided in section 4(d) of the PAYGO Act, 2 U.S.C. 933(d), budgetary effects on the PAYGO scorecards are based on Congressional estimates for bills including a reference to a Congressional estimate in the Congressional Record, and for which such a reference is indeed present in the Record. Absent such a Congressional cost estimate, OMB is required to use its own estimate for the scorecard. No bill enacted during the first session of the 112th Congress had such a Congressional estimate and therefore OMB was required to provide an estimate for all PAYGO laws enacted during the session.

- Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, Public Law 112–9;
- Department of Defense and Full-Year Continuing Appropriations Act, 2011, Public Law 112–10;
- Budget Control Act of 2011, Public Law 112–25;
- An Act to Extend the Generalized System of Preferences, and for other purposes, Public Law 112–40;
- An Act to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes, Public Law 112–56; and
- Consolidated Appropriations Act, 2012, Public Law 112–74.

In addition, 10 laws were enacted that were estimated to have PAYGO budgetary effects (costs or savings) greater than zero but less than $500 million over one or both of the 5-year or 10-year PAYGO windows. These acts were:

- Restoring GI Bill Fairness Act of 2011, Public Law 112–26;
- Leahy-Smith America Invents Act, Public Law 112–29;
- Continuing Appropriations Act, 2012, Public Law 112–33;
- Child and Family Services Improvement and Innovation Act, Public Law 112–34;
- Veterans Health Care Facilities Capital Improvement Act of 2011, Public Law 112–37;
- United States-Korea Free Trade Agreement Implementation Act, Public Law 112–41;
- United States-Colombia Trade Promotion Agreement Implementation Act, Public Law 112–42;
- United States-Panama Trade Promotion Agreement Act, Public Law 112–43;
- Consolidated and Further Continuing Appropriations Act, 2012, Public Law 112–55; and
- National Defense Authorization Act for Fiscal Year 2012, Public Law 112–81.

Finally, in addition to the laws identified above, 17 laws enacted in the first session were estimated to have negligible budgetary effects. The budgetary effects of these laws were estimated to fall below $500,000 in each year and in the aggregate from 2012 through 2021.

II. Budgetary Effects Excluded From the Scorecard Balances

One law enacted in the first session of the 112th Congress had estimated budgetary effects on direct spending and revenues that were not included in the calculations for the PAYGO scorecards due to an exclusion required by law. Section 512 of Public Law 112–78, the Temporary Payroll Tax Cut Continuation Act of 2011, provides that "[t]he budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010." For this reason, the budgetary effects of this law were not included in the PAYGO scorecards.[4]

III. The Budget Control Act

The Budget Control Act of 2011 (BCA), Public Law 112–25, made changes in higher education programs, set limits on future discretionary spending, provided for increases in the statutory limit on Federal debt, and created a process for enacting further deficit reduction. The PAYGO effects shown on the scorecard for the BCA are limited to those effects due to changes made to higher education programs. In setting limits on total annual discretionary appropriations,[5] for the years 2012 through 2021, the BCA established enforcement mechanisms on discretionary spending to ensure that those limits would not be breached. Because the discretionary caps and the related enforcement provisions applied only to future levels of discretionary appropriations and did not affect appropriations already enacted, these provisions of the BCA were determined not to have budgetary effects under the PAYGO Act. The BCA also established a process for achieving at least $1.2 trillion in deficit reduction over the 2012 to 2021 period, backed by automatic measures for achieving the $1.2 trillion in deficit reduction in the event that the process did not produce deficit reduction of at least that amount. The process involved the establishment of a joint House and Senate committee, the "Joint Select Committee on Deficit Reduction," and the enactment of a bill recommended by the Joint Committee by January 15, 2012. The automatic measures involved sequestration of discretionary spending for 2013, reductions to the discretionary spending caps for 2014 through 2021, and a sequestration of non-exempt direct spending accounts beginning in 2013. The automatic measures to enforce deficit reduction pursuant to the Joint Committee process—which were designed to influence future Congressional action, rather than to change authorizations for specific direct spending programs or to change the level or purpose of enacted discretionary appropriations—were determined, for scoring purposes, to be enforcement measures and therefore were not included in the entry for the BCA on the PAYGO scorecards.

IV. PAYGO Scorecards

STATUTORY PAY-AS-YOU-GO SCORECARDS

[In millions of dollars; negative amounts portray decreases in deficits]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Net PAYGO Impact	83	3,836	12,432	2,852	−2,685	−7,118	−929	−2,840	−2,867	−4,791	−5,071
Totals				2011–2016		9,399			2011–2021		−7,099
Five-year PAYGO Scorecard											
Current Congressional session	1,880	1,880	1,880	1,880	1,880	1,880					
Balances from prior session	−11,035	−11,035	−11,035	−11,035	−11,035	0					

[4] If this law had been entered on the scorecard, the budgetary effects of the law included in the scorecard totals would have been reduced by a current policy adjustment for the bill's provisions relating to the Medicare physician payments under the Sustainable Growth Rate system.

[5] Discretionary spending is spending controlled by annual appropriations acts.

STATUTORY PAY-AS-YOU-GO SCORECARDS—Continued
[In millions of dollars; negative amounts portray decreases in deficits]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total, five-year scorecard	−9,155	−9,155	−9,155	−9,155	−9,155	1,880	.....	.....	.....	.....	.....
Ten-year PAYGO Scorecard											
Current Congressional session	−710	−710	−710	−710	−710	−710	−710	−710	−710	−710	−710
Balances from prior session	−6,371	−6,371	−6,371	−6,371	−6,371	−6,371	−6,371	−6,371	−6,371	−6,371	0
Total, ten-year scorecard	−7,081	−7,081	−7,081	−7,081	−7,081	−7,081	−7,081	−7,081	−7,081	−7,081	−710

The total net budgetary effects of all PAYGO legislation enacted during the first session of the 112th Congress are shown on the line labeled "net PAYGO impact" in the above table. The total five-year net impact was a cost of $9,399 million which is averaged over the years 2012 to 2016 on the 5-year PAYGO scorecard, resulting in a cost of $1,880 million in each year. Savings carried over from the prior session of the Congress more than offset these costs, resulting in a savings of $9,155 million each year in 2012 through 2015. The five-year PAYGO window extended only through 2015 in the last session of the prior Congress so, there were no five-year savings to carry over into 2016.

The total 10-year net impact of legislation enacted during the first session of the 112th Congress was a savings of $7,099 million. The 10-year PAYGO scorecard shows the total net impact averaged over the 10-year period, resulting in $710 million in savings every year. Balances from the prior session increase the savings in years 2012 through 2020 to $7,081 million.

V. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted in the first session of the 112th Congress, combined with the balances left on the scorecard from the previous session of Congress, resulted in net savings on both the 5-year and the 10-year scorecard in the budget year, which is 2012 for the purposes of this Report. Because the costs for the budget year, as shown on the scorecards, do not exceed savings for the budget year, there is no "debit" on either scorecard under section 3 of the PAYGO Act, 2 U.S.C. 932, and there is no need for a sequestration order.

The savings shown on the scorecards for 2012 will be removed from the scorecards that are used to record the budgetary effects of PAYGO legislation enacted in the second session of the 112th Congress. The totals shown in 2013 through 2021 will remain on the scorecards and will be used in determining whether a sequestration order will be necessary at the end of future sessions of the Congress.

[FR Doc. 2012–1871 Filed 2–7–12; 8:45 am]

BILLING CODE P

NEIGHBORHOOD REINVESTMENT CORPORATION

Notice of Sunshine Act Meeting; Audit Committee of the Board of Directors

TIME AND DATE: 11:30 a.m., Thursday, February 9, 2012.

PLACE: 1325 G Street NW., Suite 800, Boardroom, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Erica Hall, Assistant Corporate Secretary (202) 220–2376; *ehall@nw.org.*

AGENDA:

I. CALL TO ORDER

II. External Auditor's Presentation

III. Executive Session with External Auditors

IV. Executive Session with Internal Audit Director

V. Executive Session Related to Pending Litigation

VI. Internal Audit Report with Management's Response

VII. Internal Audit Status Reports

VIII. National Foreclosure Mitigation Counseling (NFMC)/Emergency Homeowners Loan Program (EHLP) Update

IX. OHTS Watch List

X. Adjournment

Erica Hall,

Assistant Corporate Secretary.

[FR Doc. 2012–3064 Filed 2–6–12; 4:15 pm]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0033; Docket No. 55–33166; License No. OP–31438; IA–11–061]

In the Matter of Edward G. Johnson; Confirmatory Order (Effective Immediately)

I

Mr. Edward G. Johnson is the holder of Reactor Operator License No. OP–31438 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended (Public Law 93–438), effective July 18, 2008. The license authorizes Mr. Johnson to manipulate the controls of the Palisades Nuclear Plant, Facility License No. DPR–20.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on December 20, 2011.

II

On December 7, 2010, the NRC Office of Investigations (OI) initiated an investigation (OI Case No. 3–2011–003) associated with Mr. Johnson's apparent violation of procedure requirements as an at-the-controls reactor operator at the Palisades Nuclear Plant, by removing himself from his watch standing responsibilities without proper turnover and approval from the Control Room Supervisor on October 23, 2010. Entergy Nuclear Operations, Inc. (Entergy) is the facility licensee for the Palisades Nuclear Plant.

Based on the results of the OI investigation, the NRC identified one apparent violation. The apparent violation involved Mr. Johnson, as an at-the-controls reactor operator, leaving the at-the-controls area of the Control Room without providing a turnover to a qualified individual and obtaining permission from the Control Room Supervisor. Mr. Johnson's actions were contrary to Palisades Technical Specification 5.4.1.a, as implemented

through Entergy Nuclear Management Manual EN–OP–115, Revision 9, "Conduct of Operations." Specifically, EN–OP–115, Section 4.13.b, requires that the reactor operator at-the-controls is to remain in the at-the-controls area of the Control Room except as necessary to transition from one at-the-controls area to another. Section 5.11 requires that in the case where a Control Room operator needs to be relieved during their shift, permission must be granted by the Shift Manager or Control Room Supervisor, as applicable, and a verbal turnover is conducted to a qualified individual.

On December 20, 2011, the NRC and Mr. Johnson met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. Alternative Dispute Resolution is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

In response to the NRC's offer, Mr. Johnson requested use of the NRC's ADR process to resolve differences he had with the NRC. During an ADR session on December 20, 2011, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. Prior to resumption of licensed duties, Mr. Johnson agreed to participate in the Entergy Remediation Plan developed for Mr. Johnson as a licensed operator at Palisades. Significant components of this Remediation Plan require that Mr. Johnson:

(a) Research and provide presentations to senior Palisades leadership and Operations personnel on the event and the associated duties and responsibilities of a licensed reactor operator;

(b) Participate in interviews with senior Entergy management to assess his eligibility and readiness to resume licensed duties;

(c) Complete at least 40 hours of "Under Instruction" watch on each shift as a licensed reactor operator and receive a favorable recommendation from each Shift Manager; and,

(d) Participate in a simulator scenario and associated training that include handling stressful situations and conflict management.

Mr. Johnson agreed to notify the NRC Region III Enforcement/Investigations Officer in writing within 14 days of either the successful completion of the Remediation Plan or the termination of the plan by either Mr. Johnson or Entergy.

2. Mr. Johnson recognizes an opportunity for licensed operators at other nuclear facilities to learn from his violation. Mr. Johnson agreed to convey his personal lessons learned from this event by authoring and submitting an article to the Communicator (the publication of the Professional Reactor Operator Society) requesting publication therein. Mr. Johnson agreed that the article will contain a description of the events of October 22–23, 2010; his personal lessons learned from the event, including his understanding of the importance of teamwork; the safety and legal responsibilities of a licensed reactor operator and the responsibilities to public safety; the corrective actions taken by Mr. Johnson; and Mr. Johnson's interactions with the NRC resulting from the violation. Mr. Johnson agreed to submit the draft article to the NRC Region III Enforcement/Investigations Officer within 30 days of the issuance of the Confirmatory Order and agreed to submit the final article to the Professional Reactor Operator Society for possible publication, after providing 15 days for NRC comment, and no later than 60 days of the date of the Confirmatory Order. Within 7 days of Mr. Johnson's submission to the Professional Reactor Operator Society, Mr. Johnson agreed to provide a copy of that submission to the NRC Region III Enforcement/Investigations Officer.

3. The NRC agreed not to pursue any further enforcement action in connection with the NRC's October 28, 2011, letter to Mr. Johnson. This does not prohibit NRC from taking enforcement action in accordance with the NRC Enforcement Policy, if Mr. Johnson commits a similar violation in the future or violates the Order.

On January 17, 2012, Mr. Johnson consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Mr. Johnson further agreed that this Confirmatory Order is to be effective upon issuance and that Mr. Johnson has waived his right to a hearing.

IV

Since Mr. Johnson has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

We find that Mr. Johnson's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, we have determined that public health and safety require that Mr. Johnson's commitments be confirmed by this Confirmatory Order. Based on the above and Mr. Johnson's consent, this Confirmatory Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 55, *it is hereby ordered, effective immediately, that:*

1. Prior to resumption of licensed duties, Mr. Johnson shall participate in the Entergy Remediation Plan developed for Mr. Johnson as a licensed operator at Palisades Nuclear Plant. Significant components of this Remediation Plan require that Mr. Johnson shall:

(a) Research and provide presentations to senior Palisades leadership and Operations personnel on the event and the associated duties and responsibilities of a licensed reactor operator;

(b) Participate in interviews with senior Entergy management to assess his eligibility and readiness to resume licensed duties;

(c) Complete at least 40 hours of "Under Instruction" watch on each shift as a licensed reactor operator and receive a favorable recommendation from each Shift Manager; and,

(d) Participate in a simulator scenario and associated training that include handling stressful situations and conflict management.

Mr. Johnson shall notify the NRC Region III Enforcement/Investigations Officer in writing within 14 days of either the successful completion of the Remediation Plan or the termination of the plan by either Mr. Johnson or Entergy.

2. Mr. Johnson shall convey his personal lessons learned from this event by authoring and submitting an article to the Communicator (the publication of the Professional Reactor Operator Society) requesting publication therein. Mr. Johnson agreed that the article will contain a description of the events of October 22–23, 2010; his personal lessons learned from the event, including his understanding of the importance of teamwork; the safety and legal responsibilities of a licensed reactor operator and the responsibilities to public safety; the corrective actions taken by Mr. Johnson; and Mr. Johnson's interactions with the NRC resulting

from the violation. Mr. Johnson shall submit the draft article to the NRC Region III Enforcement/Investigations Officer within 30 days of the issuance of the confirmatory order and shall submit the final article to the Professional Reactor Operator Society for possible publication, after providing 15 days for NRC comment, and no later than 60 days of the date of the confirmatory order. Within 7 days of Mr. Johnson's submission to the Professional Reactor Operator Society, Mr. Johnson shall provide a copy of that submission to the NRC Region III Enforcement/Investigations Officer.

The Regional Administrator, Region III, NRC, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Johnson of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Johnson, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in the NRC's 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 email 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's 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 email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's 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's Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email 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 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.

If a person (other than Mr. Johnson) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 25th day of January 2012.

For the U.S. Nuclear Regulatory Commission.

Cynthia D. Pederson,

Acting Regional Administrator, NRC Region III.

[FR Doc. 2012–2863 Filed 2–7–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0032; Docket No. 50–255, License No. DPR–20; EA–11–214]

In the Matter of Entergy Nuclear Operations, Inc., Palisades Nuclear Plant, 27780 Blue Star Memorial Highway, Covert, MI 49043–9530; Confirmatory Order (Effective Immediately)

I

Entergy Nuclear Operations, Inc. (Licensee or Entergy) is the holder of Reactor Operating License No. DPR–20 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) part 50 on March 24, 1971. The license authorizes the operation of the Palisades Nuclear Plant in accordance with conditions specified therein.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on December 12, 2011.

II

On December 7, 2010, the NRC Office of Investigations (OI) initiated investigation (OI Case No. 3–2011–003) associated with an at-the-controls reactor operator at the Palisades Nuclear Plant who apparently violated procedure requirements by removing himself from his watch standing responsibilities without proper turnover and approval from the Control Room Supervisor on October 23, 2010.

Based on the results of the OI investigation, the NRC identified one apparent violation. The apparent violation involved the at-the-controls reactor operator leaving the at-the-controls area of the Control Room without providing a turnover to a qualified individual and obtaining permission from the Control Room Supervisor. The individual's actions were contrary to Palisades Technical Specification 5.4.1.a, as implemented through Entergy Nuclear Management Manual EN–OP–115, Revision 9, "Conduct of Operations." Specifically, EN–OP–115, Section 4.13.b, requires that the reactor operator at-the-controls is to remain in the at-the-controls area of the Control Room, except as necessary to transition from one at-the-controls area to another. Section 5.11 requires that in the case where a Control Room operator needs to be relieved during their shift, permission must be granted by the Shift Manager or Control Room Supervisor, as applicable, and a verbal turnover is conducted to a qualified individual.

On December 12, 2011, the NRC and Entergy met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. Alternative Dispute Resolution is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

In response to the NRC's offer, Entergy requested use of the NRC's ADR process to resolve differences it had with the NRC. During an ADR session on December 12, 2011, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. Entergy stated that it already completed, prior to the ADR session, certain corrective actions that address issues underlying the apparent violation. These actions included:

(a) Operations management conducted a briefing for Palisades Operations personnel to communicate the importance of the at-the-controls turnover process and the timely notification of events;

(b) Management conducted a comprehensive assessment during the week of November 5, 2010, to assess the Palisades Operations Department's adherence to Entergy's Conduct of Operations procedure;

(c) Entergy conducted training sessions for Palisades Shift Managers on the role of the Shift Manager in plant operations and in conflict resolution;

(d) Entergy reaffirmed to Palisades Operations Department personnel the importance of raising issues to senior management;

(e) Entergy developed and presented to all licensed operators at Palisades a case study based on the event. The case study discussed methods for identifying, addressing, and resolving conflicts between Control Room staff;

(f) Entergy conducted training sessions for Shift Managers at Palisades to enhance their knowledge and performance under the Behavioral Observation Program;

(g) The Control Room Supervisor on-shift during the event participated in a conflict management program;

(h) Senior Palisades management developed and presented to each licensed operator requalification class, a case study, which focused on the

responsibilities of licensed operators, compliance with regulations, and the consequences of noncompliance;

(i) Entergy developed simulator scenarios based on this event for use at Palisades. The scenarios portrayed stressful situations that require conflict resolution skills. These scenarios include training on the existing requirements of EN–OP–115 (Conduct of Operations) and the Behavioral Observation Program;

(j) Entergy developed and conducted training for Palisades Operations personnel on stress management and conflict resolution;

(k) Entergy developed and conducted training for Palisades Operations personnel on the requirements of the Behavioral Observation Program; and,

(l) Entergy developed a Remediation Plan for the at-the-controls Operator to complete before becoming eligible for consideration for the resumption of licensed duties. Significant components of this Remediation Plan require that the Operator:

- Research and provide presentations to senior Palisades leadership and Operations personnel on the event and the associated duties and responsibilities of a licensed reactor operator;
- Participate in interviews with senior Entergy management to assess his eligibility and readiness to resume licensed duties;
- Complete at least 40 hours of "Under Instruction" watch on each shift as a licensed reactor operator and receive a favorable recommendation from each Shift Manager; and,
- Participate in a simulator scenario and associated training that include handling stressful situations and conflict management.

2. Within 90 days of the effective date of this Confirmatory Order, Entergy agreed to develop a case study of the events that gave rise to this Confirmatory Order, which highlights the safety responsibilities of licensed reactor operators (this term includes senior reactor operators for purposes of this Confirmatory Order), the importance of managing and maintaining an effective Control Room environment, the importance of effective Control Room watch teamwork, the importance and requirements of the Behavioral Observation Program, and the requirements of the Corrective Action Program. Entergy agreed to present this case study within 365 days after development to its licensed reactor operators in the Entergy fleet as part of Operator Initial or Requalification Training, as appropriate.

3. Within 90 days of the effective date of this Confirmatory Order, Entergy agreed that a senior Entergy nuclear executive will send a letter to each licensed reactor operator in the Entergy nuclear fleet (in Entergy's employ as of the date of the letter) re-emphasizing the responsibilities of their position and their associated safety responsibilities and obligations to the public.

4. Within 365 days of the effective date of this Confirmatory Order, Entergy agreed to develop and make a presentation based on the facts and lessons learned from the events that gave rise to this Confirmatory Order. Entergy agreed to make this presentation at the appropriate industry forum(s) with an Operations focus (such as a Plant Manager forum or a breakout session at an American Nuclear Society Utility Working Group meeting), such that industry personnel in all four NRC regions would have the opportunity to receive the material.

5. Within 180 days of the effective date of this Confirmatory Order, Entergy agreed to review the following three Entergy fleet procedures to determine their adequacy in light of the events that gave rise to this Confirmatory Order: (a) Conduct of Operations, EN–OP–115; (b) Shutdown Safety Management Program, EN–OU–108; and (c) Infrequently Performed Tests or Evolutions, EN–OP–116. Entergy agreed to make the results of this review available for NRC inspection, and Entergy agreed to address any relevant observations, findings, or recommendations in its Corrective Action Program.

6. Entergy agreed to retain experienced persons from outside of Entergy to conduct a safety culture assessment of the Palisades Operations Department. Entergy may also satisfy this obligation by having this assessment conducted as part of a Palisades site-wide safety culture assessment. Entergy agreed to complete this assessment within 180 days of the effective date of this Confirmatory Order. Entergy agreed to make the results of this assessment available for NRC inspection, and Entergy agreed to address any relevant observations, findings, or recommendations in its Corrective Action Program.

7. Entergy agreed to conduct a review of the planning for the next refueling outage at Palisades by a person or persons from outside of the Palisades organization, which shall focus on potentially stressful or complex work evolutions in the Control Room to ensure that they are properly planned. During the performance of a suitable sample of these selected potentially stressful or complex activities, Entergy agreed to conduct observations by a person or persons from outside of the Palisades organization to evaluate the effectiveness of actions taken to enhance the safe and effective management of the Control Room environment for these activities. Entergy agreed to complete the activities described in this paragraph within 180 days of the effective date of this Confirmatory Order. Entergy agreed to make the results of this review available for NRC inspection, and Entergy agreed to address any relevant observations, findings, or recommendations in its Corrective Action Program.

8. If Entergy determines that it is appropriate to restore the license of the at-the-controls Operator identified in this event to an active status, Entergy agreed to inform the NRC in writing of the basis for its decision and its plan to monitor and manage his performance for one complete operating cycle. Entergy agreed to provide this written notification to the NRC not less than two weeks before the operator resumes licensed duties.

9. Entergy agreed to inform the NRC Regional Administrator, Region III, in writing within 30 days of the completion of all of the actions described in this Confirmatory Order.

10. The NRC agreed to describe the violation in the Confirmatory Order, without a severity level. The NRC agreed to not issue a separate Notice of Violation or Civil Penalty.

11. The NRC agreed not to pursue any further enforcement action in connection with the NRC's letter to Entergy dated October 28, 2011. This does not prohibit the NRC from taking enforcement action in accordance with the NRC Enforcement Policy, if Entergy commits a similar violation in the future or violates the Order.

On January 19, 2012, the licensee consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Entergy further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

We find that Entergy's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, we have

determined that public health and safety require that Entergy's commitments be confirmed by this Confirmatory Order. Based on the above and Entergy's consent, this Confirmatory Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, *it is hereby ordered, effective immediately, that:*

1. Within 90 days of the effective date of this Confirmatory Order, Entergy shall develop a case study of the events that gave rise to this Confirmatory Order, which highlights the safety responsibilities of licensed reactor operators (this term includes senior reactor operators for purposes of this Confirmatory Order), the importance of managing and maintaining an effective Control Room environment, the importance of effective Control Room watch teamwork, the importance and requirements of the Behavioral Observation Program, and the requirements of the Corrective Action Program. Entergy shall present this case study within 365 days after development to its licensed reactor operators in the Entergy fleet as part of Operator Initial or Requalification Training, as appropriate;

2. Within 90 days of the effective date of this Confirmatory Order, a senior Entergy nuclear executive shall send a letter to each licensed reactor operator in the Entergy nuclear fleet (in Entergy's employ as of the date of the letter) re-emphasizing the responsibilities of their position and their associated safety responsibilities and obligations to the public;

3. Within 365 days of the effective date of this Confirmatory Order, Entergy shall develop and make a presentation based on the facts and lessons learned from the events that gave rise to this Confirmatory Order. Entergy shall make this presentation at the appropriate industry forum(s) with an Operations focus (such as a Plant Manager forum or a breakout session at an American Nuclear Society Utility Working Group meeting), such that industry personnel in all four NRC regions would have the opportunity to receive the material;

4. Within 180 days of the effective date of this Confirmatory Order, Entergy shall review the following three Entergy fleet procedures to determine their adequacy in light of the events that gave rise to this Confirmatory Order: (a) Conduct of Operations, EN–OP–115; (b) Shutdown Safety Management Program, EN–OU–108; and (c) Infrequently Performed Tests or Evolutions, EN–OP–116. Entergy shall make the results of this review available for NRC inspection, and Entergy shall address any relevant observations, findings, or recommendations in its Corrective Action Program;

5. Entergy shall retain experienced persons from outside of Entergy to conduct a safety culture assessment of the Palisades Operations Department. Entergy may also satisfy this obligation by having this assessment conducted as part of a Palisades site-wide safety culture assessment. Entergy shall complete this assessment within 180 days of the effective date of this Confirmatory Order. Entergy shall make the results of this assessment available for NRC inspection, and Entergy shall address any relevant observations, findings, or recommendations in its Corrective Action Program;

6. Entergy shall conduct a review of the planning for the next refueling outage at Palisades by a person or persons from outside of the Palisades organization, which shall focus on potentially stressful or complex work evolutions in the Control Room to ensure that they are properly planned. During the performance of a suitable sample of these selected potentially stressful or complex activities, Entergy shall conduct observations by a person or persons from outside of the Palisades organization to evaluate the effectiveness of actions taken to enhance the safe and effective management of the Control Room environment for these activities. Entergy shall complete the activities described in this paragraph within 180 days of the effective date of this Confirmatory Order. Entergy shall make the results of this review available for NRC inspection, and Entergy shall address any relevant observations, findings, or recommendations in its Corrective Action Program;

7. If Entergy determines that it is appropriate to restore the license of the at-the-controls Operator identified in this event to an active status, Entergy shall inform the NRC in writing of the basis for its decision and its plan to monitor and manage his performance for one complete operating cycle. Entergy shall provide this written notification to the NRC not less than two weeks before the operator resumes licensed duties; and,

8. Entergy shall inform the NRC Regional Administrator, Region III, in writing within 30 days of the completion of all of the actions described in this Confirmatory Order.

The Regional Administrator, Region III, NRC, may, in writing, relax or rescind any of the above conditions upon demonstration by Entergy of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Entergy, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. All documents filed in the NRC's 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 ten days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request: (1) A digital 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 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 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.

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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 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 email notice confirming receipt of the document. The E-Filing system also distributes an email 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 email at *MSHD.Resource@nrc.gov*, or by a toll-free call at (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 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.

If a person (other than Entergy) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above, shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register**, without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A Request for Hearing Shall Not Stay the Immediate Effectiveness of this Order.

For the U.S. Nuclear Regulatory Commission.

Dated this 25th day of January 2012.

Cynthia D. Pederson,

Acting Regional Administrator, NRC Region III.

[FR Doc. 2012–2864 Filed 2–7–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410; NRC–2012–0021]

Facility Operating License Amendment From Nine Mile Point Nuclear Station, LLC.; Nine Mile Point Nuclear Station, Unit 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment; request for comment and hearing; and order.

DATES: Comments must be filed by March 9, 2012. A request for a hearing must be filed by April 9, 2012. Any potential party as defined in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.4, who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) is necessary to respond to this notice must request document access by February 21, 2012.

ADDRESSES: Please include Docket ID NRC–2012–0021 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see

"Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. 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–2012–0021. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668; email: *Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Cindy Bladey, 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.

FOR FURTHER INFORMATION CONTACT: Richard V. Guzman, Project Manager, Plant Licensing Branch 1–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–1030; email: *Richard.Guzman@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Submitting Comments and Accessing Information

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 can access publicly available documents related to this document 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 available online 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 the 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 email to *pdr.resource@nrc.gov*. The application for amendment, dated December 30, 2011, is available electronically under ADAMS Accession No. ML12009A118. Enclosure 6 of the amendment contains proprietary information and, accordingly, those portions are being withheld from public disclosure. A redacted version of Enclosure 6 is included with the publicly available application for amendment.
- *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–2012–0021.

II. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–69 issued to Nine Mile Point Nuclear Station, LLC. (the licensee), for operation of the Nine Mile Point Nuclear Station, Unit 2, (NMP2) located in Oswego, New York.

The proposed amendment to the NMP2 licensing basis would revise Section 4.5 of the NMP2 Updated Safety Analysis Report (USAR) to identify Modified Alloy 718 as the material used to fabricate the jet pump holddown beams. The NMP2 is planning to replace all 20 of the jet pump mixers in the upcoming spring 2012 refueling outage. As part of that modification, the existing Alloy X–750 holddown beams will be replaced with the Modified Alloy 718 material. The licensee states that the Modified Alloy 718 material has similar or improved material properties and improved resistance to stress-corrosion cracking initiation and propagation as compared to Alloy-750 material. This application contains sensitive unclassified non-safeguards information.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves 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. 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 proposed change is limited to replacement of the existing jet pump holddown beam material with Modified Alloy 718 material. The jet pump assemblies are not considered an initiator of any previously evaluated accident. The jet pumps are passive devices that direct reactor coolant flow to the core during normal plant operation and function to maintain the ability to reflood the reactor to two-thirds core height following a loss of coolant accident (LOCA). The Modified Alloy 718 material has similar or improved material properties compared to the existing jet pump beam material (Alloy X–750). Thus, the jet pump holddown beams fabricated from the Modified Alloy 718 material are no more likely to fail than the existing jet pump beams, thereby assuring that the jet pump assemblies will continue to function to maintain the ability to reflood the reactor to two-thirds core height following a LOCA. In addition, the material change does not affect the design or operation of any accident mitigation system. Therefore, neither the types or amounts of radiation released nor the predicted radiological consequences of previously evaluated accidents will be affected.

Based on the above discussion, it is concluded that the proposed amendment 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.

The proposed change is limited to the replacement of the existing jet pump holddown beam material with Modified Alloy 718 material. The proposed change does not affect any material related failure mechanisms or malfunctions that could be associated with the jet pump holddown beam and does not affect the design function of the beam to apply a downward clamping force on each inlet subassembly to resist the elbow and nozzle hydraulic reaction forces during normal operation.

The material change does not affect the ability of the jet pump assemblies to function to maintain the ability to reflood the reactor to two-thirds core height following a LOCA, and does not affect the design function or operation of any plant system or component. The proposed material change also does not introduce any new or different plant operating modes, and does not change any setpoints that would alter the dynamic response of plant equipment. Therefore, the jet pump holddown beam material change does not introduce any new or different accident initiation mechanisms.

Based on the above discussion, it is concluded that the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change is limited to replacement of the existing jet pump holddown beam material with Modified Alloy 718 material. The Modified Alloy 718 material has similar or improved material properties compared to the existing material such that the jet pump assembly design functions are not adversely affected. The proposed change does not alter any setpoints at which protective actions are initiated, and there are no changes to the design or operational requirements for systems or equipment assumed to operate for accident mitigation.

Based on the above discussion, it is concluded that the proposed amendment does not involve 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.

The Commission is seeking public comments on this proposed determination. Any comments received by March 9, 2012 will be considered in making any final determination. You may submit comments using any of the methods discussed under the **ADDRESSES** section of this document.

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, 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.

III. Opportunity To Request a Hearing; Petitions for Leave To Intervene

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions." Interested persons should consult 10 CFR 2.309, which is available at the NRC's Public Document Room (PDR), Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 1 (800) 397–4209 or (301) 415–4737). 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/*.

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the requestor/petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the requestor or petitioner and specifically explain the reasons why the intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) 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 identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must include a concise statement of the alleged facts or expert opinions which support the position of the requestor/petitioner and on which the requestor/petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the requestor/petitioner disputes and the supporting reasons for each dispute, or, if the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief.

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 with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board (the Licensing Board) will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally-recognized Indian tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the

proceeding. The petition should be submitted to the Commission April 9, 2012. The petition must be filed in accordance with the filing instructions in Section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by April 9, 2012.

If a hearing is requested, 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.

IV. Electronic Submissions (E-Filing)

All documents filed in the 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.

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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 February 8, 2012. 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).

Attorney for licensee: Carey W. Fleming, Senior Counsel, Constellation Energy Nuclear Group, LLC., 100 Constellation Way, Suite 200C, Baltimore, MD 21202.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguard 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 email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@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 to 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

[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.

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.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 2nd day of February 2012.

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. 2012–2862 Filed 2–7–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29943; File No. 812–13983]

DoubleLine Capital LP and DoubleLine Funds Trust; Notice of Application

February 2, 2012.

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 rule 12d1–2(a) under the Act

SUMMARY OF APPLICATION: Applicants request an order to permit open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: DoubleLine Capital LP ("DoubleLine") and DoubleLine Funds Trust ("Trust").

FILING DATE: The application was filed on November 30, 2011.

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 February 27, 2012, and should be accompanied by proof of service on 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.

[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.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: DoubleLine, 333 South Grand Avenue, Suite 1800, Los Angeles CA 90071.

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. The Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. DoubleLine, the Trust's investment adviser, is organized as a Delaware limited partnership and is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act").

2. Applicants request the exemption to the extent necessary to permit any existing or future series of the Trust and any other registered open-end management investment company or series thereof that (i) is advised by DoubleLine or any person controlling, controlled by or under common control with DoubleLine (any such adviser or DoubleLine, an "Adviser");[1] (ii) is in the same group of investment companies as defined in section 12(d)(1)(G) of the Act; (iii) invests in other registered open-end management investment companies ("Underlying Funds") in reliance on section 12(d)(1)(G) of the Act; and (iv) is also eligible to invest in securities (as defined in section 2(a)(36) of the Act) in reliance on rule 12d1–2 under the Act (each a "Fund of Funds," and together with the Underlying Funds, the "Funds"), to also invest, to the extent consistent with its investment objectives, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act ("Other Investments").[2] Applicants also request that the order exempt any entity, including any entity controlled by or under common control with an Adviser, that now or in the future acts as principal underwriter, or broker or dealer if registered under the Securities Exchange Act of 1934, as amended ("Exchange Act"), with respect to the transactions described in the application.

3. Consistent with its fiduciary obligations under the Act, each Fund of Funds' board of trustees will review the advisory fees charged by the Fund of Funds' Adviser to ensure that they are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Fund of Funds may invest.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company ("acquiring company") may acquire securities of another investment company ("acquired company") if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies and companies controlled by them.

2. Section 12(d)(1)(G) of the Act provides, in part, that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquired company and acquiring company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (i) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (ii) securities (other than securities issued by an investment company); and (iii) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, "securities" means any security as defined in section 2(a)(36) of the Act.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, or from any rule under the Act, 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 policies and provisions of the Act.

5. Applicants state that the Funds of Funds will comply with rule 12d1–2 under the Act, but for the fact that the Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Funds of Funds to invest in Other Investments while investing in Underlying Funds. Applicants assert that permitting the Funds of Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Fund of Funds from investing in Other Investments as described in the application.

[1] Any other Adviser will also be registered under the Advisers Act.

[2] Every existing entity that currently intends to rely on the requested order is named as an applicant. Any entity that relies on the order in the future will do so only in accordance with the terms and condition in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–2834 Filed 2–7–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66306; File No. SR–BX–2011–084]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Granting Approval of Proposed Rule Change To Reduce the Duration of the Price Improvement Period ("PIP") From One Second to One Hundred Milliseconds

February 2, 2012.

I. Introduction

On December 7, 2011, NASDAQ OMX BX, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to reduce the duration of the Price Improvement Period ("PIP") of the Boston Options Exchange Group, LLC ("BOX"), a facility of the Exchange, from one second to one hundred milliseconds. The proposed rule change was published for comment in the **Federal Register** on December 22, 2011.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The PIP is an auction system that is used by BOX Options Participants to execute their agency orders as principal, with a potential for customer price improvement. The BOX Options Participant may submit any size customer order, along with a matching contra proprietary order at a price equal to the national best bid or offer, into the PIP. After submission of that customer order, PIP will send out a broadcast message to other BOX Options Participants, who may enter orders ("Improvement Orders") competing against the original contra side proprietary order. At the conclusion of the auction, the customer order would be matched on a price and time priority with orders on the opposite side, subject to certain conditions. Currently, the PIP lasts one second from the dissemination of the PIP broadcast. The Exchange proposes to reduce the duration of the PIP from one second to one hundred milliseconds.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, 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 Commission believes that, given advances in the electronic trading environment, reducing the duration of the PIP from one second to one hundred milliseconds could facilitate the prompt execution of orders while continuing to provide market participants with an opportunity to compete for bids and/or offers without compromising the ability for adequate exposure and participation in PIP. To substantiate that BOX Options Participants could receive, process, and communicate a response back to BOX within one hundred milliseconds, the Exchange stated that it distributed a survey to its members that would be affected by this proposal or that regularly participate in the PIP. According to the Exchange, 14 of 16 participants responded, at least in part, to the survey, and nine participants responded that they can receive, process, and communicate multiple PIP responses back to BOX within substantially less than 100 milliseconds.[6]

In addition, the Exchange stated that BOX reviewed PIP execution data by its participants during the three-month period from May to July of 2011. The Exchange stated that BOX's review indicated that approximately 85% of Improvement Orders executed at the conclusion of a PIP were submitted within 100 milliseconds of the initial PIP Order.[7] Approximately 78% of Improvement Orders executed at the end of a PIP were submitted in less than ten milliseconds, and 70% were submitted in less than five milliseconds.[8] Thus, according to the Exchange, participants whose PIP responses averaged greater than one hundred milliseconds made a conscious decision to delay responses, but such participants operate electronic systems which enable them to sufficiently react and respond to multiple PIP broadcasts within one hundred milliseconds, if they chose to do so.[9]

Based on the Exchange's statements regarding the survey results and the review of its PIP data, the Commission believes that market participants should continue to have meaningful opportunities to participate in the PIP if the exposure period is reduced to one hundred milliseconds, and accordingly, finds that the proposed rule change is consistent with the requirement of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–BX–2011–084), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–2800 Filed 2–7–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66307; File No. SR–BATS–2011–051]

Self-Regulatory Organizations; BATS Exchange, Inc.; Order Granting Approval of Proposed Rule Change To Implement a Competitive Liquidity Provider Program

February 2, 2012.

I. Introduction

On December 16, 2011, BATS Exchange, Inc. ("BATS" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65987 (December 16, 2011), 76 FR 79734 ("Notice").

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] *See* Notice, *supra* note 3, 76 FR at 79735.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

thereunder,[2] a proposed rule change to implement a Competitive Liquidity Provider Program. The proposed rule change was published for comment in the **Federal Register** on December 29, 2011.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

BATS proposes to create a new category of market participants, known as Competitive Liquidity Providers ("CLPs"), to enhance liquidity on the Exchange in Exchange-listed securities through participating in a Competitive Liquidity Provider Program ("CLP Program").

The securities eligible to be included in the CLP Program would include any security that is listed on the Exchange pursuant to Exchange Rules 14.8 (relating to Tier I securities), 14.9 (relating to Tier II securities) or 14.11 (relating to exchange traded funds and other exchange traded products (collectively, "ETPs")), unless and until such security has had a consolidated average daily volume ("CADV")[4] of equal to or greater than 2 million shares for two consecutive calendar months during the first two years the security is subject to the CLP Program, or until the security has been subject to the CLP Program for two years. In addition, the Exchange proposes to permit ETPs that are initially listed on the Exchange to remain in the CLP Program for six months regardless of CADV.

To qualify as a CLP, a member must be a registered market maker in good standing with the Exchange.[5] The Exchange would also require each member seeking to qualify as a CLP to have and maintain: (1) Adequate technology to support electronic trading through the systems and facilities of the Exchange; (2) one or more unique identifiers that identify to the Exchange CLP trading activity in assigned CLP securities; (3) adequate trading infrastructure to support CLP trading activity, which includes support staff to maintain operational efficiencies in the CLP program and adequate administrative staff to manage the member's participation in the CLP program; (4) quoting and volume performance that demonstrates an ability to meet the CLP quoting requirement in each assigned security on a daily and monthly basis; (5) a disciplinary history that is consistent with just and equitable business practices; and (6) the business unit of the member acting as a CLP must have in place adequate information barriers between the CLP unit and the member's customer, research and investment banking business.

To become a CLP, a member must submit a CLP application form with all supporting documentation to the Exchange. Exchange personnel in the Exchange's membership department would process such applications. Exchange personnel would determine whether an applicant is qualified to become a CLP based on the qualifications described above. After an applicant submits a CLP application to the Exchange, with supporting documentation, the Exchange shall notify the applicant member of its decision. After Exchange approval, the applicant must establish connectivity with relevant Exchange systems before such applicant would be permitted to trade as a CLP on the Exchange. In the event an applicant is disapproved by the Exchange, such applicant may seek review under Chapter X of the Exchange's rules governing adverse action and/or reapply for CLP status at least three calendar months following the month in which the applicant received the disapproval notice from the Exchange.[6] A CLP may withdraw from the CLP Program by giving notice to the Exchange. Such withdrawal shall become effective within 30 days of the CLP's notice, or when the Exchange reassigns that CLP's securities to another CLP, whichever comes sooner.

The Exchange would measure the performance of a CLP in assigned securities by calculating Size Event Tests ("SETs") during Regular Trading Hours[7] on every day on which the Exchange is open for business. The Exchange will measure each CLP's quoted size at the NBB and NBO[8] at least once per second during such trading hours to determine SETs. The CLP with the greatest aggregate size at the NBB and NBO at each SET would be considered to have a "winning SET."

The Exchange proposes to adopt both daily and monthly quoting requirements. First, a CLP must have at least 10% of the winning SETs on any trading day in order meet its daily quoting requirement and to be eligible for any daily quotation rebate provided by the Exchange (each such CLP, an "Eligible CLP"). Eligible CLPs would be ranked according to the number of winning SETs each trading day, and only the Eligible CLP ranked number one, and in some cases the Eligible CLP ranked number two, would receive the daily rebate. In addition to providing a daily rebate to CLPs that have the highest demonstrated size at the NBB and NBO during the trading day, the Exchange also plans to propose incentives by providing special pricing for executions that occur in any auction operated by the Exchange pursuant to Exchange Rule 11.23. The financial incentives to be proposed by the Exchange would specify the amount and allocation of rebates provided to CLPs as well as the parameters for receiving special pricing in Exchange auctions.

Second, a CLP must be quoting at the NBB or the NBO 10% of the time the Exchange calculates SETs to meet its monthly quoting requirement. For purposes of calculating whether a CLP is in compliance with its CLP quoting requirements, the CLP must post displayed liquidity in round lots in its assigned securities at the NBB or the NBO. A CLP may post non-displayed liquidity; however, such liquidity will not be counted as credit towards the CLP quoting requirements. The CLP would not be subject to any minimum or maximum quoting size requirement in assigned securities apart from the requirement that an order be for at least one round lot. The CLP quoting requirements would be measured by utilizing the unique identifiers for CLP trading activity. A CLP that fails to meet its monthly quoting requirements in any of its assigned securities for three consecutive months may be subject to disqualification from the CLP Program.

CLPs may only enter orders electronically directly into Exchange systems and facilities. All CLP orders must only be for the proprietary account of the member.

The Exchange, in its discretion, would assign to the CLP one or more securities consisting of Exchange-listed securities for CLP trading purposes. The Exchange would determine the number of Exchange-listed securities within the group of securities assigned to each CLP. The Exchange, in its discretion, would assign one or more CLPs to each security subject to the CLP Program, depending upon the trading activity of the security. The Exchange would restrict the CLPs assigned to any newly issued security that is listed on the Exchange pursuant to Exchange Rule

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 66034 (December 22, 2011), 76 FR 82011 ("Notice").

[4] CADV will be measured by statistics provided through the consolidated tape plans.

[5] *See* Exchange Rules 11.5–11.8.

[6] Chapter X of the Exchange's rules provides any persons who are or are about to be aggrieved by an adverse action taken by the Exchange with a process to apply for an opportunity to be heard and to have the complained of action reviewed.

[7] The term "Regular Trading Hours" is defined in Exchange Rule 1.5(w) as the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[8] Exchange Rule 1.5(o) defines "NBB" as the national best bid, and "NBO" as the national best offer.

14.11, which relates to ETPs, to those members that have actively participated in the development or funding of such product. This restriction would remain in effect for six months following the initial offering of the ETP on the Exchange after which time there would be no limitation on the members that can be assigned as CLPs for such a product.

III. Discussion and Commission Findings

After careful review, the Commission finds 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(b) of the Act.[9] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[10] because it would promote just and equitable principles of trade, and, in general, protect investors and the public interest.[11]

The Commission believes that the CLP Program may benefit investors because it is reasonably designed to provide greater liquidity for the securities that participate in the CLP Program. The securities eligible for the CLP Program are generally newly listed securities that could particularly benefit from potentially greater liquidity as a result of enhanced quoting obligations.

As proposed by the Exchange, each CLP must comply with a monthly quoting requirement in order to remain a CLP, and must comply with a daily quoting requirement in order to be eligible for the financial incentives of the CLP Program. With respect to the monthly quoting requirement, a CLP must be quoting at the NBB or NBO 10% of the time that the Exchange is calculating SETs. With respect to the daily quoting requirement, the CLP with the greatest aggregate size at the NBB and NBO at each SET would be considered to have the winning SET, with the CLP with the greatest number of winning SETs (and, in some instances, the CLP with second-greatest number of winning SETs) each day receiving the daily rebate. Thus, this proposal would incentivize both quoting frequency at the NBBO and quoted size at the NBBO, potentially improving the market quality of the securities that participate in the CLP Program.

The Commission also finds that this program is reasonably designed to encourage listings on the Exchange. This may promote competition among listing venues, and an issuer seeking to list its securities could benefit from the potential impact such competition has on listing fees or quoting obligations across venues.

The Commission also finds that the proposal is not unfairly discriminatory. Registration as an Exchange market maker is available to all Exchange members that satisfy the requirements of Exchange Rule 11.7, and all Exchange market makers are eligible to apply to become CLPs. The Commission finds further that the proposal to establish procedures for the registration, withdrawal, and disqualification of CLPs, and the CLP quoting requirements, are consistent with the requirements of Section 6(b)(5) of the Act. The Exchange's proposed rules provide an objective process by which a member could become a CLP and for appropriate oversight by the Exchange to monitor for continued compliance with the terms of these provisions. The Commission also notes that these provisions, including the CLP quoting requirements, are similar to those of at least one other exchange.[12] As a result, the Commission believes that these aspects of the proposal are consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–BATS–2011–051) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–2801 Filed 2–7–12; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] In approving the proposed rule change, the Commission notes that it has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* NYSE Rule 107B (governing Supplemental Liquidity Providers).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66308; File No. SR–NYSEAmex–2012–02]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Options Rule 902NY To Create a Reserve Floor Market Maker Amex Trading Permit

AGENCY: Securities and Exchange Commission.

ACTION: Notice; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** on January 31, 2012 concerning a Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Options Rule 902NY To Create a Reserve Floor Market Maker Amex Trading Permit by NYSEAmex LLC. An incorrect release number was assigned to that document.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, (202) 551–5400.

Correction

In the **Federal Register** of January 31, 2012, in FR Doc. 2012–2036, on page 4848, in the middle column, in the 14th line, the release number is corrected to read as noted above.

Dated: February 2, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–2812 Filed 2–7–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66310; File No. SR–NASDAQ–2012–015]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4618

February 2, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 19, 2012, the NASDAQ Stock Market LLC ("NASDAQ") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II

[1] 15 U.S.C. 78s(b)(1).

below, which Items have been prepared primarily by NASDAQ. NASDAQ filed the proposal pursuant to Section 19(b)(3)(A) (iii) of the Act[2] and Rule 19b-4(f)(6)[3] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is filing this proposed rule change to amend Rule 4618. The text of the proposed rule change is shown below. Proposed new language is italicized, and proposed deletions are in brackets.

4618. Clearance and Settlement

(a) All transactions through the facilities of the Nasdaq Market Center shall be cleared and settled through a registered clearing agency using a continuous net settlement system. This requirement may be satisfied by direct participation, use of direct clearing services, [or] by entry into a correspondent clearing arrangement with another member that clears trades through such a[n]*clearing* agency[.], *or by use of the services of CDS Clearing and Depository Services, Inc. in its capacity as a member of such a clearing agency.*

(b) Notwithstanding paragraph (a), transactions may be settled "ex-clearing" provided that both parties to the transaction agree.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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. NASDAQ has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to modify Rule 4618 to clarify that the use of a long-standing arrangement between National Securities Clearing Corporation ("NSCC") and CDS Clearing and Depository Services, Inc. ("CDS")[5] for clearing transactions in U.S. securities provides an acceptable method for clearing transactions executed on NASDAQ. Among other things, CDS operates Canada's national clearance and settlement operations for cash equities trading, performing a role analogous to NSCC in the U.S. CDS is regulated by the Ontario and Quebec securities commissions and the Bank of Canada and has working and reporting relationships with the Canadian Securities Administrators, other Canadian provincial securities commissions, and the Canadian Office of the Superintendent of Financial Institutions. CDS is also a full service member of NSCC and a participant in The Depository Trust Company ("DTC").

Currently, a Canadian broker-dealer seeking to buy or sell U.S. securities may do so through a U.S. registered broker-dealer with which it establishes a relationship for that purpose. In such a relationship, the US broker-dealer manages the clearance and settlement of the resulting trades, either through direct membership at NSCC or indirectly through a clearing broker with which it has established a relationship. Under the proposed change, a Canadian broker-dealer that is a member of CDS may make use of CDS, and its direct membership in NSCC, to clear and settle the resulting trades. Specifically, the clearing report for the trade will "lock in" CDS, making reference to the CDS membership of the Canadian broker-dealer, as a party to the trade.[6] NSCC will then look to CDS for the satisfaction of the clearance and settlement obligations of the Canadian broker-dealer. NSCC requires CDS to commit collateral to the NSCC clearing fund like any other NSCC member, the amount of which is based on a risk-based margining methodology. In a similar manner, CDS requires its participants to commit collateral to CDS. The sole risk incurred by NASDAQ and then by NSCC in the arrangement is the highly remote risk that CDS itself might default on its obligations to clear and settle on behalf of the Canadian broker-dealer. This risk is conceptually indistinguishable from the risk of a clearing broker default, but because the value of the trades of the Canadian broker-dealers cleared through the mechanism is likely to be small in comparison to the values cleared through many large U.S. clearing brokers, the magnitude of this risk is correspondingly smaller.

The relationship between NSCC and CDS was established more than two decades ago, and various aspects of the relationship have been recognized through several prior filings[7] and no-action letters.[8] A recent description of the parameters of the relationship may be found in NSCC's Assessment of Compliance with the CPSS/IOSCO Recommendations for Central Counterparties.[9] The most prominent use of the relationship arises under FINRA Rule 7220A, which allows over-the-counter trades executed on behalf of CDS members to be reported through the FINRA/NASDAQ Trade Reporting Facility and cleared through the CDS/NSCC relationship. NASDAQ also understands that the EDGA Exchange and the EDGX Exchange permit clearance of trades executed on behalf of Canadian broker-dealers through this mechanism.

In order to clearly establish that use of the CDS/NSCC relationship is a permissible method of clearing transactions executed on NASDAQ, NASDAQ is proposing to amend Rule

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(6).

[4] The Commission has modified the text of the summaries prepared by NASDAQ.

[5] CDS was formerly known as The Canadian Depository for Securities Limited.

[6] As an NSCC member, CDS is responsible for the clearing and settling of its participants' trades conducted with U.S. broker-dealers. For purposes of "locking-in" parties, certain CDS participants have discrete NSCC participant codes that identify the Canadian broker-dealer and its participation in the NSCC/CDS clearing arrangement. On midnight of T+1, NSCC takes on the buyer's credit risk and the seller's delivery risk.

[7] *See, e.g.*, Securities Exchange Act Release No. 34–36918 (March 4, 1996), 61 FR 9739 (March 11, 1996) (SR–NASD–95–49) (approving access to Automated Confirmation Transaction Service for CDS members); Securities Exchange Act Release No. 34–40523 (October 6, 1998), 63 FR 54739 (October 13, 1998) (approving establishment of a CDS omnibus account at DTC to facilitate cross-border clearing).

[8] *See, e.g.*, Letter from Dan W. Schneider, Deputy Associate Director, Commission, to Karen L. Saperstein, Assistant General Counsel, NSCC (November 26, 1984) (available at 1984 WL 47355) (taking no-action position with respect to use of CDS and NSCC with respect to clearing of trades executed on behalf of Canadian broker-dealers on the Boston Stock Exchange); Letter from Dan W. Schneider, Deputy Associate Director, Commission, to Karen L. Saperstein, Assistant General Counsel, NSCC (October 24, 1984) (available at 1984 WL 47356) (taking no-action position with respect to CDS becoming a member of NSCC).

[9] "Assessment of Compliance with the CPSS/IOSCO Recommendations for Central Counterparties," NSCC (November 14, 2011) (available at *http://www.dtcc.com/legal/compliance/NSCC_Self_Assessment.pdf*).

4618. Currently, the rule provides that trades must be cleared through a registered clearing agency using a continuous net settlement ("CNS") system and that this requirement may be satisfied by direct participation, use of direct clearing services, or by entry into a correspondent clearing arrangement with another member that clears trades through such an agency. NSCC is currently the only registered clearing agency using a CNS system for trades executed on NASDAQ. While it is possible that the term "direct clearing services" could be construed to cover CDS's participation in NSCC on behalf of its members because CDS is a direct member of NSCC for the purpose of providing clearing services to its members the term has not previously been construed by NASDAQ in that manner. Accordingly, NASDAQ believes that the clarity of the rule would be enhanced by directly recognizing the CDS/NSCC relationship in the rule text. NASDAQ proposes amending the rule to provide that the rule may be satisfied through "use of the services of CDS Clearing and Depository Services, Inc. in its capacity as a member of such a clearing agency." Whenever a clearing arrangement making use of CDS's membership in NSCC is established, the NASDAQ member, the Canadian broker on whose behalf it is acting, CDS, and NASDAQ will sign a short agreement addressed to NSCC in which the parties acknowledge their use of the CDS/NSCC arrangement.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act[10] in general and with Section 6(b)(5) of the Act[11] in particular in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable practices of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Specifically, by allowing Canadian broker-dealers whose trades are executed on NASDAQ to make use of the long-standing arrangement between NSCC and CDS for clearing transactions, NASDAQ believes that the proposed rule change will directly foster cooperation and coordination with the two primary North American cash equities clearinghouses and their respective members and will thereby promote a free and open market. Because the arrangement between NSCC and CDS, which has been in place in varying forms for over two decades, includes mechanisms to provide for the collateralization of the obligations arising thereunder, NASDAQ believes that the proposed change is fully consistent with the protection of investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ 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. The proposed change will ensure that Canadian broker-dealers whose trades are executed on NASDAQ are able to make use of an additional option for clearing such transactions, thereby promoting competition with respect to the availability of clearing services. The change will enhance NASDAQ's ability to compete in the over-the-counter market with other exchanges that offer the ability to clear through the CDS/NSCC relationship.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. NASDAQ will notify the Commission of any written comments received by NASDAQ.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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 immediately effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

NASDAQ has requested that the Commission waive the 30-day operative waiting period contained in Exchange Act Rule 19b–4(f)(6)(iii). The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the arrangement between NSCC and CDS countenanced by the proposed rule change has been in place and has been used for over two decades, includes mechanisms to provide for the collateralization of the obligations arising thereunder, and has long been recognized under FINRA and NASD rules for use in clearing over-the-counter transactions. The technology changes at NASDAQ necessary to allow implementation of the proposed rule change have already been made. Accordingly, the Commission believes that the change does not significantly affect the protection of investors or the public interest and does promote competition. Conversely, because delay of implementation would only serve to delay the availability of a well-established clearing mechanism for clearing certain trades executed on NASDAQ and would thereby inhibit customer choice and flexibility without advancing any regulatory goal, it would be consistent with the protection of investors and the public interest to waive the waiting period. Therefore, the Commission designates the proposed rule change as 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change 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

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[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 the five-day prefiling requirement.

[14] 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).

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2012–015 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–NASDAQ–2012–015. This file number should be included on the subject line if email 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 filings also will be available for inspection and copying at the principal office of NASDAQ.

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–NASDAQ–2012–015 and should be submitted on or before February 29, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2012–2832 Filed 2–7–12: 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66311; File No. SR–NYSEARCA–2012–07]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Deleting the Text of NYSE Arca Equities Rule 5.2(b)(1) and Adopting New NYSE Arca Equities Rule 5190 That Is Substantially the Same as Financial Industry Regulatory Authority Rule 5190

February 2, 2012.

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 January 23, 2012, 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 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 delete the text of NYSE Arca Equities Rule 5.2(b)(1) and adopt new NYSE Arca Equities Rule 5190 that is substantially the same as Financial Industry Regulatory Authority ("FINRA") Rule 5190. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and 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 delete the text of NYSE Arca Equities Rule 5.2(b)(1) and adopt new NYSE Arca Equities Rule 5190 that is substantially the same as FINRA Rule 5190.[4] The proposed rule change will further harmonize the Exchange's rules with the rules of FINRA, NYSE, and NYSE Amex. The Exchange believes the proposed rule change will help reduce duplicative reporting requirements for ETP holders who are also FINRA members and/or NYSE or NYSE Amex member organizations, because ETP Holders will not be required to submit an additional Regulation M notification to the Exchange if they have already provided a notification to FINRA, NYSE, or NYSE Amex pursuant to their respective rules.

Background

NYSE Arca Equities Rule 5.2(b)(1) requires ETP Holders that act as a lead underwriter of an offering to notify the Exchange of such offering in the form and manner as required by the Exchange, including the information specified in the rule. NYSE Arca Equities Rule 5.2(b)(1) covers the same material as FINRA Rule 5190, which was adopted to consolidate certain Regulation M-related notification requirements and applies uniformly to distributions of listed and unlisted securities.[5] FINRA Rule 5190 imposes certain notice requirements on members participating in distributions of listed and unlisted securities, and is designed to ensure that FINRA receives pertinent distribution-related information from its members in a timely fashion to facilitate its Regulation M compliance program. FINRA recently amended FINRA Rule 5190 to clarify members' notice obligations under the rule.[6] NYSE and NYSE Amex Equities each adopted a version of FINRA Rule 5190 for their respective markets, which incorporate

[4] *See* Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (SR–FINRA–2008–039). The Exchange's affiliates, New York Stock Exchange LLC ("NYSE") and NYSE Amex LLC ("NYSE Amex"), previously adopted versions of FINRA Rule 5190; *See* Securities Exchange Act Release Nos. 59965 (May 21, 2009), 74 FR 25783 (May 29, 2009) (SR–NYSE–2009–25) and 59975 (May 26, 2009), 74 FR 26449 (June 2, 2009) (SR–NYSEALTR–2009–26).

[5] See Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (SR–FINRA–2008–039).

[6] See Securities Exchange Act Release No. 62970 (September 22, 2010), 75 FR 59771 (September 28, 2010) (SR–FINRA–2010–037).

all of the elements of FINRA Rule 5190 plus add Exchange-specific notification requirements in NYSE and NYSE Amex Equities Rules 5190(e).

Pursuant to a regulatory services agreement, FINRA performs certain regulatory services on behalf of NYSE Arca, NYSE, and NYSE Amex, including review of Regulation M-related notification requirements under NYSE Arca Equities Rule 5.2(b)(1), NYSE Rule 5190, and NYSE Amex Equities Rule 5190. Under the current rule and as provided for pursuant to NYSE Arca Equities Rule 0, all notifications to the Exchange under NYSE Arca Rule 5.2(b)(1) are submitted directly to FINRA. Accordingly, when a common member of NYSE Arca and FINRA or common member of NYSE Arca and NYSE and NYSE Amex equities have Regulation M-related notification requirements, FINRA receives two submissions from that same common member—one notification pursuant to NYSE Arca Equities Rule 5.2(b)(1) and a separate Rule 5190 notification that meets the requirements of FINRA Rule 5190, NYSE Rule 5190, and NYSE Amex Equities Rule 5190. The content of these notifications is substantially the same, albeit in different formats.

Proposed Rule Change

The Exchange proposes to harmonize its Regulation M-related notification rules with the rules of FINRA, NYSE, and NYSE Amex Equities both to provide uniformity in the marketplace as well as to reduce duplicative reporting obligations for the same subject matter. Accordingly, the Exchange proposes to adopt NYSE Arca Equities Rule 5190, which is based on both FINRA Rule 5190, and NYSE and NYSE Amex Equities Rule 5190.

Similar to NYSE Arca Equities Rule 5.2(b)(1), proposed NYSE Arca Equities Rule 5190 would require, in part, that an ETP Holder acting as a manager (or in a similar capacity) of an offering to provide the following information:

- The ETP Holder's determination as to whether a one-day or five-day restricted period applies under Rule 101 of SEC Regulation M and the basis for such determination, including the contemplated date and time of the commencement of the restricted period, the listed security name and symbol, and identification of the distribution participants and affiliated purchasers, no later than the business day prior to the first complete trading session of the applicable restricted period, unless later notification is necessary under specific circumstances;
- The pricing of the distribution, including the listed security name and symbol, the type of security, the number of shares offered, the offering price, the last sale before the distribution, the pricing basis, the SEC effective date and time, the trade date, the restricted period, and identification of the distribution participants and affiliated purchasers, no later than the close of business the next business day following the pricing of the distribution, unless later notification is necessary under specific circumstances; and
- The cancellation or postponement of any distribution for which prior notification of commencement of the restricted period has been submitted under paragraph (c)(1)(A), immediately upon the cancellation or postponement of such distribution. If no ETP Holder is acting as a manager (or in a similar capacity) of such distribution, then each ETP Holder that is a distribution participant or affiliated purchaser shall provide the notice required under paragraph (c)(1), unless another ETP Holder has assumed responsibility in writing for compliance therewith.

Proposed NYSE Arca Equities Rule 5190 is substantially similar to FINRA Rule 5190, except that the term "member" has been replaced with "ETP Holder" and "stabilizing bids" have been added to the proposed rule, which is consistent with NYSE Rule 5190(e) and NYSE Amex Equities Rule 5190(e). The Exchange notes that proposed NYSE Arca Equities Rule 5190(e) incorporates the concepts currently set forth in NYSE Arca Equities Rule 5.2(b)(1)(B).

Consistent with current practice that notifications "to the Exchange" are submitted directly to FINRA, notification under proposed NYSE Arca Equities Rule 5190 may be satisfied via third-party data communication facilitators or emailed directly to FINRA's Regulatory Trading Official Desk at *secondaryofferings@finra.org*. Further, because notifications submitted pursuant to FINRA Rule 5190 or NYSE Rule 5190 will meet the requirements of NYSE Arca Equities Rule 5190, such notifications will also satisfy the notification requirements of NYSE Arca Equities Rule 5190.[7] ETP Holders, therefore, need not make duplicative filings to the Exchange if notifications have been submitted to FINRA pursuant to NYSE or FINRA rules.

2. Statutory Basis

The proposed rule change is consistent with the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between NYSE Arca Equities Rules and FINRA Rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members of both SROs. To the extent the Exchange has proposed changes that differ from the FINRA version of the rules, such changes are technical in nature and do not change the substance of the proposed NYSE Arca Equities rules.

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[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

[7] On June 14, 2010, FINRA and the Exchange entered into a Regulatory Services Agreement that sets forth, pursuant to the Statement of Work, certain regulatory services including surveillance and investigation functions.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

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) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(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 because such waiver would reduce redundancies associated with Regulation M filings. This reduces unneeded regulatory burdens on members and may help ease review of these filings. For these reasons, the Commission designates the proposed rule change as operative immediately upon filing with the Commission.[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.

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 email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2012–07 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–NYSEARCA–2012–07. This file number should be included on the subject line if email 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 inspection and copying in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com*. 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–NYSEARCA–2012–07 and should be submitted on or before February 29, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–2833 Filed 2–7–12; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[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 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)(iii).

[15] 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).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66309; File No. SR–MSRB–2012–01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Amendments to Rule G–14, on Reports of Sales or Purchases, Including the Rule G–14 RTRS Procedures, and Amendments to the Real-Time Transaction Reporting System

February 2, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 20, 2012, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB is filing with the SEC a proposed rule change consisting of amendments to Rule G–14, Reports of Sales or Purchases, including the Rule G–14 RTRS Procedures, and amendments to the Real-Time Transaction Reporting System ("RTRS") information system and subscription service (the "RTRS Facility"; collectively, "proposed rule change"). The proposed changes to Rule G–14 would remove certain outdated information. The proposed changes to the RTRS Facility would (A) remove certain outdated information and amend certain definitions to reflect current system operating hours and business days; (B) add an RTRS-calculated yield to the information disseminated for inter-dealer transactions; (C) remove certain infrequently used data reporting requirements; (D) require dealers to submit dollar prices for certain trades; and (E) reduce the number of customer trades suppressed from dissemination because of potentially erroneous price/yield calculations. The MSRB proposes that the proposed rule change be implemented in three phases, as further described herein.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Interpretations/SEC-Filings/2012-Filings.aspx, at the MSRB's principal office, 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 MSRB 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 MSRB 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

Amendments to Rule G–14, on Reports of Sales or Purchases, and Rule G–14 RTRS Procedures. MSRB Rule G–14 requires brokers, dealers, and municipal securities dealers (collectively, "dealers") to report certain information about each purchase and sale transaction effected in municipal securities to RTRS. Such transaction information is made available to the public, the SEC, the Financial Industry Regulatory Authority ("FINRA") and certain federal bank regulatory agencies to assist in the inspection for compliance with and enforcement of MSRB rules. The reporting requirements are further outlined in Rule G–14 RTRS Procedures and the RTRS Users Manual.[3]

The proposed rule change would amend Rule G–14 and the Rule G–14 RTRS Procedures to update certain references (such as references to the National Association of Securities Dealers, the predecessor of FINRA); eliminate certain provisions that are no longer relevant (such as provisions relating to testing during the original RTRS start-up period) or that, by their original terms, have expired; and conform terms in certain definitions.

Amendments to the RTRS Facility. The RTRS Facility provides for the collection and dissemination of information about transactions occurring in the municipal securities market, and requires dealers to submit information about each purchase and sale transaction effected in municipal securities. The proposed rule change would (A) remove certain outdated information and reporting requirements and amend certain definitions to reflect current system operating hours and business days; (B) modify RTRS specifications to perform certain yield calculations for inter-dealer transactions; (C) remove certain infrequently used data reporting requirements; (D) require dealers to submit dollar prices for certain trades; and (E) modify RTRS specifications to reduce the number of trades suppressed from dissemination because of erroneous price and yield calculations.

Remove certain outdated information and conform definitions to reflect current system operating hours and business days. The proposed rule change would remove references throughout the text of the RTRS Facility to prior amendments to Rule G–14, to certain testing requirements and to the implementation plan relevant to the initial phases of the RTRS system; update current hours of operation; conform certain definitions to reflect such change; and make non-substantive revisions to the language of certain portions of the RTRS Facility to reflect the passage of time since its initial approval.

Yields on inter-dealer transactions. Inter-dealer transaction reporting is accomplished by both the purchasing and selling dealers submitting information about the transaction to the DTCC's real-time trade matching system ("RTTM"). Information submitted to RTTM is forwarded to RTRS for trade reporting. For most inter-dealer transactions, dealers report final money, par amount and accrued interest to RTTM—as opposed to a dollar price and yield[4] as is done for customer trades—and RTRS computes a dollar price from these values for inter-dealer transaction price dissemination.[5] Currently, RTRS does not compute a corresponding yield from the RTRS-computed dollar price for dissemination, resulting in a disparity between what is disseminated for inter-dealer and customer transactions.

To facilitate yield-based comparisons of transaction data across securities, the proposed rule change would cause RTRS to be reprogrammed to perform this calculation so that a yield for most inter-dealer transactions would be added to the information disseminated from RTRS, thereby improving the usefulness of the inter-dealer data disseminated to subscribers and displayed on the MSRB's Electronic Municipal Market Access (EMMA®) Web site.[6] Since EMMA® is a subscriber to the RTRS real-time subscription service, the yield disseminated for inter-dealer transactions also would be displayed on EMMA® in the same manner as it would be provided to RTRS subscribers.[7] This amendment to the RTRS Facility is reflected in the changes under the heading "Price Dissemination by RTRS—List of Information Items to be Disseminated" and "MSRB Real-Time Transaction Data Subscription Service—Description—Transaction Data Disseminated—Yield (if applicable)," and conforming changes to the RTRS Users Manual will be made.

Transaction reporting requirements. MSRB rules on transaction reporting contain two requirements that were included in the original design for RTRS in 2005 to provide additional details about certain transactions for use in market surveillance. These requirements have applied to few transactions, yet continue to generate questions from dealers, and have provided only limited value for use in market surveillance. The proposed rule change would revise the RTRS specifications to remove these requirements.

The first of these two requirements relates to inter-dealer transactions and requires the identity of an "intermediate dealer," or correspondent of a clearing broker that passes data to the clearing broker about transactions effected by a third dealer ("effecting dealer"), to be included on applicable trade reports. One of the original purposes of having the intermediate dealer included in a trade report was to assist market surveillance staff by having an additional dealer associated with a transaction reported in the event that the effecting dealer's identity was erroneously reported. However, few

[3] Rule G–14 RTRS Procedures are included in the text of MSRB Rule G–14; and the RTRS Users Manual is available on the MSRB Web site at *www.msrb.org*. The RTRS Users Manual will be revised as necessary to reflect the changes made by the proposed rule change.

[4] Dollar price and yield on customer transactions are required to be computed in the same manner as required under MSRB Rule G–15(a), on customer confirmations. Accordingly, from the transaction dollar price, dealers report yield calculated to the lower of an in-whole call feature or maturity.

[5] For transactions in new issue securities traded on a when, as and if issued basis prior to the closing date being known, dealers only report a dollar price or yield since a final money and accrued interest calculation cannot be performed.

[6] In addition to calculating and disseminating yield for future inter-dealer transactions, amendments to RTRS specifications would calculate and disseminate yields for historical inter-dealer transactions in RTRS to the extent that such calculations can be accurately performed.

[7] Since the RTRS subscription service already includes a field for yield, no significant system changes should be necessary for existing RTRS subscribers to receive yields on inter-dealer transactions.

transaction reports contain such an intermediate dealer and, since the November 2009 enhancement to transaction reporting to add the effecting broker to the matching criteria in RTTM, the identity of the effecting dealer is rarely, if ever, erroneous. The proposed rule change would delete the requirement for dealers to identify the intermediate dealer. This amendment to the RTRS Facility is reflected by the deletion of the penultimate paragraph under the heading "RTRS Facility—Enhancement of Information Available to Regulators," and conforming changes to the RTRS Users Manual will be made.

The second requirement applies to any transaction effected at a price that substantially differs from the market price as a result of the parties to the transaction agreeing to significantly deviate from a normal settlement cycle. For such transactions, dealers are required to include an identifier on the trade report that allows the trade report to be entered into the RTRS audit trail yet suppressed from price dissemination. Since a small number of transactions are reported with this identifier, for example only .01% of trade reports were identified with this indicator in August 2011, these transactions could be reported using the generic "away from market" indicator used for reporting any transaction at a price that differs from the current market price for the security to simplify transaction reporting requirements. Thus, concurrently with the elimination of the intermediate dealer reporting requirement, the RTRS Users Manual would be revised to delete the "away from market—extraordinary settlement" special condition indicator from RTRS and require that such transactions be reported using the generic "away from market" indicator.

Reporting dollar price for all inter-dealer transactions. RTRS currently computes a dollar price for inter-dealer transactions using the final money, par amount and accrued interest submitted to DTCC. Since the information reported for inter-dealer transactions also is used by DTCC for purposes of clearance and settlement, DTCC procedures require dealers to report par value as an expression of the number of bonds traded as opposed to the actual par amount traded. If the par value of a security is no longer a $1,000 multiple because, for example, the issuer has prepaid a portion of the principal on a security on a pro rata basis, dealers continue to report for inter-dealer transactions par value expressed as the number of bonds (i.e. ten bonds would be reported as $10,000 par value). Transactions between dealers in this security would result in erroneous RTRS-calculated dollar prices since the final money reported by the dealers would be based on a transaction in a security for which each bond costs less than $1,000.[8]

Since MSRB transaction reporting for inter-dealer transactions began in 1994, a very small portion of inter-dealer transactions have been in securities with a non-standard $1,000 par multiple.[9] However, primarily since many Build America Bonds issued in recent years included partial call features with a pro-rata redemption provision, there is a likelihood that many more securities may contain par values that are no longer $1,000 multiples. In addition, there have been press reports that more securities may be issued in nontraditional denominations, such as securities issued in $25 par amounts similar to preferred stock and other "mini bonds" with sub-$1,000 principal values.

To ensure that the dollar price disseminated for inter-dealer transactions remains accurate and to minimize the impact on dealer operations as well as the clearance and settlement use of the data submitted to DTCC, the MSRB proposes to require dealers to report—in addition to the information currently reported for inter-dealer transactions—the contractual dollar price at which the transaction was executed.[10] This amendment to the RTRS Facility is reflected in the changes under the heading "MSRB Real-Time Transaction Data Subscription Service—Description—Transaction Data Disseminated—Dollar Price," and conforming changes to the RTRS Users Manual will be made.

Increase dissemination of customer transactions. As described above, dealer reports of customer transactions include both a dollar price and yield. Depending on whether the transaction was executed on the basis of a dollar price or yield, a corresponding value must be computed and reported to RTRS by the dealer consistent with the customer confirmation requirements so that the corresponding value reflects a value to the lower of an in-whole call feature or maturity. RTRS also computes the dollar price from the reported yield on customer transactions using security descriptive information from the RTRS security master as a data quality check to ensure that the reported information is accurate. Currently, this data quality check returns an error to dealers and suppresses the transaction from being disseminated in the event that the dollar price computed by RTRS does not exactly match the dollar price reported by the dealer. Dealers receiving this error are required to review the information reported and, if incorrect, modify the transaction information in RTRS. However, in some cases, dealers submit correct information yet RTRS computes an erroneous dollar price as a result of an error in the security descriptive information used by RTRS.[11]

In 2010, of those trades receiving this error, over 75% of the reported dollar prices disagreed with the RTRS-calculated dollar price by less than one dollar. To increase the number of customer transactions disseminated, the proposed rule change would cause RTRS to be reprogrammed to adjust the tolerance of the error code so that the error would continue to be returned to dealers for customer transactions where the reported dollar price disagrees with the RTRS calculated price but allow the trade report to be disseminated so long as the dealer and RTRS-calculated dollar prices are within $1 of each other. Further, since the disseminated dollar price would be unable to be exactly verified, RTRS would also be programmed to include with the disseminated trade report an indicator that the dollar price of these trades was unable to be verified. Thus, concurrently with the amendment to require dollar price reporting for all inter-dealer transactions, the RTRS

[8] For example, if an issuer has prepaid 50% of the principal on a $1,000 denominated security, each bond would cost $500 so a transaction of 10 bonds at "par" would be reported with a par value of $10,000 and final money of $5000 resulting in an RTRS-computed dollar price of $50. This anomaly only occurs on inter-dealer transactions since customer transactions are reported with a dollar price and yield. In this example, the dollar price on a customer transaction in this security would be reported as $100, or 100% of the principal amount.

[9] Historically, this problem primarily has been limited to transactions in certain municipal collateralized mortgage obligations.

[10] For data quality purposes, RTRS would compare the buy and sell-side contractual dollar prices and return errors to dealers in the event of a material difference between the two reported dollar prices and continue to calculate a dollar price from the reported final money, par value and accrued interest. Since the dealer reported dollar price would not be used for clearance or settlement at DTCC, this data field would be able to be modified in RTRS by dealers to correct errors, even after trade matching had occurred. In the event that the dollar prices disagree between dealers, RTRS would disseminate the RTRS-calculated dollar price and if the dealer reported dollar prices agree yet differ from the RTRS-calculated dollar price (which would occur if the security par value is no longer a $1,000 multiple) RTRS would disseminate the dealer reported dollar price.

[11] In these cases, there is no action the dealer can take to disseminate the trade report and, to ensure the integrity of RTRS, the MSRB does not manually manipulate trade data or security descriptive information to cause the trade to meet the criteria of the error code.

Users Manual would be revised to reflect these changes in programming.

Phased Effective Dates of Proposed Rule Change. The MSRB proposes that the proposed rule change be implemented in three phases. Those changes to Rule G–14, the Rule G–14 RTRS Procedures, and the RTRS Facility removing outdated provisions and amending certain definitions, as described above under the caption "Amendments to the RTRS Facility—Remove certain outdated information and conform definitions to reflect current system operating hours and business days", would be made effective upon approval by the SEC. Those changes to the RTRS Facility not requiring dealers to perform significant system changes, as described above under the captions "Amendments to the RTRS Facility—Yields on inter-dealer transactions" and "Amendments to the RTRS Facility—Transaction reporting requirements", would be made effective on April 30, 2012. Those changes to the RTRS Facility requiring dealers and subscribers to the RTRS subscription service to make significant system changes, as described above under the captions "Amendments to the RTRS Facility—Reporting dollar price for all inter-dealer transactions" and "Amendments to the RTRS Facility—Increase dissemination of customer transactions", would be made effective on a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than November 30, 2012 and shall be announced no later than 30 days prior to the effective date thereof.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act, which provides that the MSRB's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The MSRB believes that the proposed rule change is consistent with the Exchange Act. The proposed rule change would remove impediments to and perfect the mechanism of a free and open market in municipal securities by improving trade reporting and market transparency. The proposed rule change would facilitate comparison of trade data across securities and within data for a security, thereby contributing to fairer pricing; improve the reliability and accuracy of price information disseminated for inter-dealer transactions, and increase the number of customer transactions disseminated to the market. These changes would contribute to the MSRB's continuing efforts to improve market transparency and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change would be applicable to all dealers and would be made effective over a period of time, thereby allowing dealers sufficient time to make the necessary changes to their systems. The improved reliability of inter-dealer price information, the improved ability to compare prices, and the increase in customer trades disseminated to the market would outweigh any potential negative impact on dealers.

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 on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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 Exchange 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 email to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2012–01 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–MSRB–2012–01. This file number should be included on the subject line if email 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 MSRB's offices. 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–MSRB–2012–01 and should be submitted on or before February 29, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–2831 Filed 2–7–12; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66208; File No. SR–Phlx–2012–06]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Real-Time Risk Management Fee and Other Clarifying Amendments

January 20, 2012.

Correction

In notice document 2012–1583 appearing on pages 4077–4079 in the issue of January 26, 2012 make the following correction:

On page 4079, in the first column, in the last full paragraph, in the last sentence, "February 13, 2012", should read "February 16, 2012."

[FR Doc. C1–2012–1583 Filed 2–7–12; 8:45 am]

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

Community Advantage Pilot Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of changes to Community Advantage Pilot Program.

SUMMARY: On February 18, 2011, SBA published a notice introducing the Community Advantage Pilot Program. In that notice, SBA provided an overview of the Community Advantage Pilot Program requirements, including the application process to participate, and SBA modified or waived as appropriate certain regulations, which otherwise apply to the 7(a) loan program, for the Community Advantage Pilot Program. SBA continues to refine and improve the design of the Community Advantage Pilot Program. To support SBA's commitment to expanding access to capital for small businesses and entrepreneurs in underserved markets, SBA is issuing this Notice to revise certain program requirements, including certain of the regulatory waivers.

DATES: Effective Date: This Notice is effective February 8, 2012.

Applicability Date: This Notice applies to Community Advantage Pilot Program loan applications (or requests for loan numbers submitted under a lender's delegated authority) approved by SBA on or after February 8, 2012.

FOR FURTHER INFORMATION CONTACT: Grady B. Hedgespeth, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW., Washington DC 20416; (202) 205–7562; *grady.hedgespeth@sba.gov.*

SUPPLEMENTARY INFORMATION: On February 18, 2011, SBA issued a notice and request for comments introducing the Community Advantage Pilot Program ("CA Pilot Program") (76 FR 9626). The CA Pilot Program was introduced to increase SBA-guaranteed loans to small businesses in underserved markets. The February 18, 2011 notice provided an overview of the CA Pilot Program requirements and, pursuant to the authority provided to SBA under 13 CFR 120.3 to suspend, modify or waive certain regulations in establishing and testing pilot loan initiatives, SBA modified or waived as appropriate certain regulations which otherwise apply to 7(a) loans for the CA Pilot Program. SBA continues to refine and improve the design of the CA Pilot Program and, on September 12, 2011, SBA issued a notice modifying certain of those regulatory waivers in order to permit Community Advantage Lenders ("CA Lenders") to pledge loans made under the CA Pilot Program ("CA loans") as collateral for certain lender financings that are approved by SBA. (76 FR 56262) In response to comments received on the CA Pilot Program and to further support SBA's commitment to expanding access to capital for small businesses and entrepreneurs in underserved markets, SBA is issuing this Notice to revise several of the original program requirements, including certain regulatory waivers, as described more fully below.

In the February 18, 2011 notice, SBA waived the regulations at 13 CFR 120.213, 120.214 and 120.215 and set the maximum allowable interest rate that CA Lenders may charge for CA loans at prime + 4%. SBA is now increasing the maximum allowable rate that a CA Lender may charge a borrower to prime + 6%. Therefore, SBA is continuing to waive the regulations at 13 CFR 120.213, 120.214 and 120.215 to allow CA Lenders to charge prime + 6% on CA Loans.

Additionally, in response to comments received on the initial notice announcing the CA Pilot Program, SBA is modifying the program requirements to allow participating CA Lenders to contract with Lender Service Providers (LSPs) as defined at 13 CFR 103.1(d). In accordance with Agency regulations at 13 CFR 120.410, a CA Lender must have a continuing ability to evaluate, process, close, disburse, service, liquidate and litigate small business loans. A CA Lender may contract with a third party (an LSP) to assist with one or more of these functions. However, the CA Lender itself, not the LSP, has ultimate responsibility for evaluating, processing, closing, and liquidating its SBA loan portfolio.

SBA is also removing "Tier Two—Conditional Delegation" from the levels of delegated authority that a CA Lender may receive. Thus, there will only be two distinct categories: delegated authority and non-delegated authority. The remaining pilot program requirements pertaining to delegated authority, including how to request delegated authority and when a CA Lender can begin processing CA loans using delegated authority, remain unchanged.

SBA is further modifying the requirements for CA Lenders to sell loans in the secondary market by allowing CA Lenders to request authority either at the time of application or after one year of participation. CA Lenders granted permission for secondary market sales must have additional reserves and must complete additional training related to secondary market activities and requirements before they are allowed to initiate secondary market sales.

Finally, in response to comments received on the initial notice announcing the CA Pilot Program, SBA is revising the original lender oversight strategy to better clarify the expected costs and schedule of oversight. The February 18, 2011 notice provided that all participating lenders will receive an examination or review after the first year of operation. The revised strategy removes this requirement and explains that SBA will monitor CA Lenders using various oversight tools, including but not limited to Off-Site Reviews, Desk Reviews, Agreed Upon Procedures On-site Reviews, On-site Risk Based Reviews and On-Site Examinations. SBA's Office of Credit Risk Management (OCRM) will evaluate the CA Lender's level of activity, performance metrics, risk rating, effectiveness in reaching SBA targeted underserved market segments and other relevant information to determine the appropriate oversight tool(s) to employ. Lender risk evaluations will also include a review of information from SBA's processing, servicing and liquidation/guaranty purchase centers. SBA anticipates that the cost for off-site monitoring through desk reviews conducted by OCRM will be approximately $150 per $1 million in loans outstanding. Additional costs for more extensive reviews and examinations will vary based on the CA Lender's portfolio size and performance, as well as OCRM's assessment of the CA Lender.

All other SBA guidelines and regulatory waivers related to the CA Pilot Program remain unchanged.

In connection with the CA Pilot Program, SBA also issued a Community Advantage Participant Guide to provide more detailed guidance on the CA Pilot Program requirements. This guide was posted on SBA's Web site at *http://www.sba.gov*. SBA has issued a revised Community Advantage Participant Guide that incorporates all of these changes. The revised Community Advantage Participant Guide is available on SBA's Web site at *http://www.sba.gov/sites/default/files/files/CA%20-%20Participants%20Guide.pdf*. In addition to issuing this Notice and the revised CA Participant Guide, SBA will modify SBA Forms 2301, Parts A, B, C and D to reflect these changes. Finally, SBA will modify the Community Advantage Lender Participation Application (SBA Form 2301, Part E). The application form also may be found on SBA's Web site at *http://www.sba.gov/sites/default/files/tools_sbf_forms_2301e.pdf*.

SBA may provide additional guidance, through SBA notices, which may also be published on SBA's Web site at *http://www.sba.gov/category/lender-navigation/forms-notices-sops/notices*. Questions regarding the CA Pilot Program may be directed to the Lender Relations Specialist in the local SBA district office. The local SBA district office may be found at *http://www.sba.gov/about-offices-list/2*.

Authority: 15 U.S.C. 636(a)(25) and 13 CFR 120.3.

Karen G. Mills,

Administrator.

[FR Doc. 2012–2798 Filed 2–7–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12998 and #12999]

Texas Disaster #TX–00385

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Texas dated 01/30/2012.

Incident: Severe Storms and Flooding.

Incident Period: 01/09/2012.

DATES: *Effective Date:* 01/30/2012.

Physical Loan Application Deadline Date: 03/30/2012.

Economic Injury (Eidl) Loan Application Deadline Date: 10/30/2012.

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 Administrator's disaster declaration, applications for disaster loans may be filed 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: Harris.

Contiguous Counties:

Texas: Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, Waller.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.125
Homeowners without Credit Available Elsewhere	2.063
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.125
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12998B and for economic injury is 129990.

The State which received an EIDL Declaration # is Texas.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: January 30, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–2797 Filed 2–7–12; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2011–0102]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/the States); Match 6000 and 6003

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on June 30, 2012.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with the States.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement from the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Daniel F. Callahan,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With State of [STATE NAME] (State)

A. Participating Agencies

SSA and the States

B. Purpose of the Matching Program

The purpose of this matching program is to set forth the terms and conditions governing disclosures of records, information, or data (herein collectively referred to as data) made by us to State agencies and departments (State agencies) that administer federally funded benefit programs under various provisions of the Social Security Act (Act). The terms and conditions of this agreement ensure that we make such disclosures of data, and the State uses such disclosed data, in accordance with the requirements of the Privacy Act of 1974, as amended by the CMPPA of 1988, 5 U.S.C. 552a.

Under Section 1137 of the Act, States are required to use an income and eligibility verification system to administer specified federally funded benefit programs, including the state-funded state supplementary payment programs under title XVI of the Act. To assist States in determining entitlement to and eligibility for benefits under those programs, as well as other federally funded benefit programs, we disclose certain data about applicants for State benefits from our Privacy Act Systems of Records (SOR) and verify the Social Security numbers (SSN) of the applicants.

Individual agreements with the States describe the information we will disclose and the conditions under which we agree to disclose such information.

C. Authority for Conducting the Matching Program

The legal authority to disclose data and the State agency's authority to collect, maintain, and use data protected under our SORs for specified purposes is:

- Sections 1137, 453, and 1106(b) of the Act (42 U.S.C. 1320b–7, 653, and 1306(b)) (income and eligibility verification data);
- 26 U.S.C. 6103(l)(7) and (8) (tax return data);
- Section 202(x)(3)(B)(iv) of the Act (42 U.S.C. 401(x)(3)(B)(iv)) (prisoner data) and Section 1611(e)(1)(I)(iii) (SSI Reference);
- Section 205(r)(3) of the Act (42 U.S.C. 405(r)(3)) and the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 7213(a)(2) (death data);
- Sections 402, 412, 421, and 435 of Public Law 104–193 (8 U.S.C. 1612, 1622, 1631, and 1645) (quarters of coverage data);
- Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111–3 (citizenship data); and
- The routine use exception to the Privacy Act, 5 U.S.C. 552a(b)(3) (data necessary to administer other programs compatible with SSA programs).

This agreement further carries out Section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 CFR part 401), the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the CMPPA of 1988, related OMB guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. 3541, *et seq.*), and related National Institute of Standards and Technology guidelines, which provide the requirements that the State must follow with regard to use, treatment, and safeguarding of data.

D. Categories of Records and Persons Covered by the Matching Program

SSA SORs used for purposes of the subject data exchanges include:

- 60–0058—Master Files of SSN Holders and SSN Applications (accessible through Enumeration Verification System, State Verification Exchange System (SVES), or Quarters of Coverage (QC) Query data systems);
- 60–0059—Earnings Recording and Self-Employment Income System (accessible through Beneficiary and Earnings Data Exchange (BENDEX), SVES, or QC Query data systems);
- 60–0090—Master Beneficiary Record (accessible through BENDEX or SVES data systems);
- 60–0103—Supplemental Security Income Record and Special Veterans Benefits File (accessible through State Data Exchange or SVES data systems);
- 60–0269—Prisoner Update Processing System (accessible through SVES or Prisoner Query data systems).
- 60–0321—Medicare Part D and Part D Subsidy File.

The State will ensure that the tax return data contained in SOR 60–0059 (Earnings Recording and Self-Employment Income System) will be used only in accordance with 26 U.S.C. 6103.

E. Inclusive Dates of the Matching Program

The effective date of this matching program is July 1, 2012; provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 2012–2838 Filed 2–7–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7792]

Culturally Significant Objects Imported for Exhibition Determinations: "The Rylands Haggadah: Medieval Jewish Art in Context"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the object to be included in the exhibition "The Rylands Haggadah: Medieval Jewish Art in Context," imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with a foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Metropolitan Museum of Art, New York, NY, from on or about March 27, 2012, until on or about

September 30, 2012, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including an art object list, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 30, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–2903 Filed 2–7–12; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Caddo Parish, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Caddo Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Carl M. Highsmith, Project Delivery Team Leader, Louisiana Division, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, LA 70808, Telephone: (225) 757–7615; or online at *www.I49shreveport.com*.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development (DOTD) and the Northwest Louisiana Council of Governments (NLCOG), will prepare an Environmental Impact Statement (EIS) on a proposal to construct the I–49 Inner City Connector.

The proposed project is an approximate 3.8 mile new freeway designed to connect existing I–49 at its current junction with I–20 to future I–49 North at its proposed junction with I–220 in Shreveport, Louisiana. The proposed project will provide for improved connectivity and reduce the distance between existing I–49 and future I–49 North by approximately 7 miles. Alternatives under consideration include: (1) Taking no action; (2) constructing an elevated freeway on new location; (3) constructing an at-grade freeway on new location; and (4) constructing a freeway that is partly elevated and partly at-grade on new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed project and soliciting comments were sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of Community Input Meetings were held at various locations in Shreveport in December 2011. In addition, a second round of Community Input Meetings are planned for spring 2012 followed by a Public Hearing late 2012. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the Public Hearing. A formal scoping meeting was held at NLCOG on October 18, 2011, when the NLCOG approved the decision to move the project forward as an Environmental Assessment. On December 1, 2011, FHWA determined the required class of action to comply with the NEPA process as an Environmental Impact Statement. Additional public scoping was conducted during the Community Input Meetings held in December 2011.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed project and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 12, 2012.

Charles W. Bolinger,

Division Administrator, Baton Rouge, Louisiana.

[FR Doc. 2012–2772 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Bridge Replacement in Massachusetts

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitations on Claims for Judicial Review of Action by FHWA.

SUMMARY: This notice announces action taken by the FHWA that is final within the meaning of 23 U.S.C. 139(l)(1). The action relates to the proposed Whittier Bridge (Interstate 95 over the Merrimack River) replacement/I–95 Improvement project in Newburyport, Amesbury and Salisbury, Massachusetts. The action grants an approval for the project under the National Environmental Policy Act of 1969.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. Sec. 139(l)(1). A claim seeking judicial review of the Federal agency action on the highway project will be barred unless the claim is filed on or before August 6, 2012.

FOR FURTHER INFORMATION CONTACT: For FHWA: Damaris Santiago, Environmental Engineer, FHWA Massachusetts Division Office, 55 Broadway, 10th Floor, Cambridge, MA 02142, (617) 494–2419, *dsantiago@dot.gov*. For Massachusetts Department of Transportation (MassDOT) Highway Division: James Cerbone, Project Manager, MassDOT Highway Division, 10 Park Plaza, Room 4260, Boston, MA 02116, 9 a.m. to 5 p.m., (617) 973–7529, *James.Cerbone@state.ma.us*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. 139(l)(1) by issuing approval for the following bridge/highway improvement project in the Commonwealth of Massachusetts. The proposed project involves as its centerpiece the replacement of the John Greenleaf Whittier Bridge over the Merrimack River. It also includes the replacement or reconstruction of four bridges along I–95 in Newburyport and Amesbury and the widening of I–95 between Exit 57 in Newburyport and Exit 60 in Salisbury. When completed, there will be four travel lanes, a shoulder adjacent to the high speed lane and a breakdown lane in each direction. The Whittier Bridge/I–95 Improvement Project was recently selected by the Obama Administration for expedited permitting and environmental review. It is one of

the largest projects to be undertaken by MassDOT under the Commonwealth's $3 billion Accelerated Bridge Program. The project includes the Whittier Trail: the first shared-use path to be constructed along a Massachusetts interstate. The action by the Federal agency, and the law under which the action was taken, are described in the Environmental Assessment (EA), for which a Finding of No Significant Impact (FONSI) was issued on January 20, 2012 and other documents in the FHWA project records. The EA, FONSI and other project records are available by contacting FHWA or MassDOT at the addresses above. The FHWA EA and FONSI can be viewed and downloaded from the project Web site at *http://whittierbridge.mhd.state.ma.us/* or viewed at public libraries in the municipalities of Amesbury, Newburyport, and Salisbury, Massachusetts.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act of 1969.

Authority: 23 U.S.C. 139(l)(1).

Issued on: January 31, 2012.

Pamela S. Stephenson,

Division Administrator, Cambridge.

[FR Doc. 2012–2830 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meeting Notice

AGENCY: Unified Carrier Registration Plan Board of Directors, Federal Motor Carrier Safety Administration (FMCSA), DOT.

TIME AND DATE: March 8, 2012, 12 noon to 3 p.m., Eastern Daylight Time.

PLACE: This meeting will take place telephonically. Any interested person may call (877) 820–7831, passcode, 908048 to participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: February 2, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–3061 Filed 2–6–12; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2010–0176]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 6, 2010, Nimishillen and Tuscarawas Railway (NTRY) of Canton, OH, has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223. FRA has assigned the petition Docket Number FRA–2010–0176.

NTRY seeks renewal of relief from the requirements of the railroad safety glazing standards (49 CFR part 223). This relief was originally granted in 1992 per Docket Number RSGM–91–31. The relief was granted for seven locomotives. NTRY's current petition requests a permanent waiver of compliance for six locomotives (numbered NTRY 1221, 1228, 1285, and LTEX 1002, 1003, and 1004) from the requirements of 49 CFR part 223, which requires certified glazing in all windows.

These locomotives, equipped to operate as remote controlled locomotives (RCL), are primarily used to move freight cars in the Republic Engineered Products facility. Occasionally, the units leave the facility to move freight cars to separate interchange tracks with the Norfolk Southern or Wheeling & Lake Erie Railway. During these operations, the units do not cross any public road crossings. The maximum speed of these operations is 10 mph. Occupancy of the locomotive cabs is minimal during shift operations within the industrial facility. All existing glazing on these locomotives is equipped with clear safety glass. NTRY states that replacing the existing glazing with FRA-certified glazing will put a severe hardship and financial burden on the railroad.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *http://www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

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 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 by March 26, 2012 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on February 3, 2012.

Ron Hynes,

Acting Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2012–2905 Filed 2–7–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Limitation on Claims.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the following locations: Los Angeles, CA; Grand Rapids, Wyoming, and Kentwood, Kent County, MI; New York, NY; Milwaukee, WI; and Anaheim, CA. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before August 6, 2012.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on these projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period of 180 days for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* Crenshaw/LAX Transit Corridor Project, Los Angeles County, CA. *Project sponsor:* Los Angeles County Metropolitan Transportation Authority (LACMTA). *Project description:* The project is an 8.5-mile fixed guideway rail system that extends from the Metro Green Line Aviation/Los Angeles International Airport (LAX) Station to the Exposition light rail transit line at the Exposition/Crenshaw Boulevards intersection. The project includes six transit stations, a vehicle maintenance storage facility near Arbor Vitae Street and Bellanca Avenue, park-and-ride lots at the Florence/La Brea, Florence/West and Crenshaw/Exposition Stations, traction power substations, and the acquisition of rail vehicles and maintenance equipment. The project includes a Crenshaw/Vernon optional station, which may be implemented if bids for the project fall within the project funding amount. *Final agency actions:* Determination of *de minimis* impact to one Section 4(f) resource; Section 106 finding of no adverse effect; project-level air quality conformity; and Record of Decision (ROD), dated December 2011. *Supporting documentation:* Final Environmental Impact Statement, dated August 2011.

2. *Project name and location:* Silver Line Bus Rapid Transit Project, Cities of Grand Rapids, Wyoming, and Kentwood, Kent County, MI. *Project sponsor:* Interurban Transit Partnership (The Rapid). *Project description:* The project is a proposed north-south bus rapid transit system (BRT) that connects Downtown Grand Rapids with the cities of Wyoming and Kentwood. The proposed alignment for the Silver Line BRT extends 9.6 miles from the Rapid Central Station on the periphery of the Grand Rapids Central Business District south to 60th Street within the cities of Wyoming and Kentwood. *Final agency actions:* No use of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated July 2011. *Supporting documentation:* Environmental Assessment, dated January 2011.

3. *Project name and location:* Second Avenue Subway, New York, NY. *Project sponsor:* Metropolitan Transportation Authority. *Project description:* The Second Avenue Subway project is the phased construction of a new 8.5-mile subway line under Second Avenue in Manhattan from 125th Street to Hanover Square in Lower Manhattan. It includes 16 new stations that will be accessible by persons with disabilities. FTA has agreed to partially fund the first phase of the project, which will run between 105th Street and 62nd Street and will connect to the existing F Line at 63rd Street. Various changes to Phase 1 of the project, as well as final design of certain elements of Phase 1, have been evaluated in a number of technical memoranda. *Final agency actions:* FTA determination that neither a supplemental environmental impact statement nor a supplemental environmental assessment is necessary. *Supporting documentation:* Technical Memorandum No. 10, documenting FTA's analysis of the potential impact of a proposed revision to the mitigation measure for three historic resources: (1) 215 East 68th Street; (2) 252 East 72nd Street; and (3) 230 East 73rd Street, dated December 2011.

4. *Project name and location:* The Milwaukee Streetcar, City of Milwaukee, Milwaukee County, WI. *Project sponsor:* City of Milwaukee. *Project description:* The initial system for the streetcar route is 2.0 miles. The project will provide streetcar service from the Milwaukee Intermodal Station on St. Paul Avenue, through downtown to Ogden Street on the City's northeast side. Proposed route extensions could expand the system north along 4th Street on the west side of the Milwaukee River and along the Prospect and Farwell corridors to the Brady Street area. *Final agency actions:* No use of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated January 2012. *Supporting documentation:* Environmental Assessment, dated October 2011.

5. *Project name and location:* Anaheim Regional Transportation Intermodal Center, City of Anaheim, Orange County, CA. *Project sponsor:* Orange County Transportation Authority. *Project description:* The Orange County Transportation Authority (OCTA), in partnership with the City of Anaheim is proposing to relocate the existing Anaheim Metrolink/Amtrak Station. The

proposed new location for the Anaheim Regional Transportation Intermodal Center (ARTIC) is an approximately 19-acre site in the City of Anaheim, along the existing OCTA railroad right-of-way. The ARTIC will include an intermodal terminal, public plaza drop-off area, stadium pavilion, track and platforms, road improvements, surface parking, and surface access. A pedestrian bridge will be built for crossing Katella Avenue between the project and Honda Center. *Final agency actions:* No use of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated January 2012. *Supporting documentation:* Environmental Assessment, dated September 2011.

Issued on: February 3, 2012.

Lucy Garliauskas,

Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. 2012–2901 Filed 2–7–12; 8:45 am]

BILLING CODE: P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 558 (Sub-No. 15)]

Railroad Cost of Capital—2011

AGENCY: Surface Transportation Board.

ACTION: Notice of decision instituting a proceeding to determine the railroad industry's 2011 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 2011. The decision solicits comments on the following narrow issues: (1) The railroads' 2011 current cost of debt capital; (2) the railroads' 2011 current cost of preferred equity capital (if any); (3) the railroads' 2011 cost of common equity capital; and (4) the 2011 capital structure mix of the railroad industry on a market value basis. Comments should focus on the various cost of capital components listed above using the same methodology followed in *Railroad Cost of Capital—2010,* EP 558 (Sub-No. 14) (STB served Oct. 3, 2011).

DATES: Notices of intent to participate are due by March 9, 2012. Statements of the railroads are due by March 30, 2012. Statements of other interested persons are due by April 19, 2012. Rebuttal statements by the railroads are due by May 9, 2012.

ADDRESSES: Comments may be submitted either via the Board's e-filing system or in the traditional paper format. Any person using e-filing should comply with the instructions at the E-FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 558 (Sub-No. 15), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board's decision is posted on the Board's Web site, *http://www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human environment of the conservation of energy resources.

Authority: 49 U.S.C. 10704(a).

Decided: February 2, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Raina S. White,

Clearance Clerk.

[FR Doc. 2012–2851 Filed 2–7–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Baker & Miller PLLC on behalf of the Kansas City Southern (WB595–9—1/27/12), for permission to use certain data from the Board's 2010 Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Marcin Skomial, (202) 245–0344.

Raina S. White,

Clearance Clerk.

[FR Doc. 2012–2804 Filed 2–7–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Meeting the Challenge of Pandemic Influenza: Ethical Guidance for Leaders and Health Care Professionals in the Veterans Health Administration

AGENCY: Department of Veterans Affairs.

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Veterans Affairs (VA) through its National Center for Ethics in Health Care (NCEHC) invites interested parties to comment on a guidance document entitled "Meeting the Challenge of Pandemic Influenza: Ethical Guidance for Leaders and Health Care Professionals in the Veterans Health Administration." (*Guidance*). VA is committed to an open and engaged stakeholder process and welcomes input on how to improve the *Guidance* and integrate key ethical concepts into ongoing emergency response planning in VA.

DATES: Comments must be received by VA on or before April 9, 2012.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "Meeting the Challenge of Pandemic Influenza: Ethical Guidance for Leaders and Health Care Professionals in the Veterans Health Administration." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Virginia A. Sharpe, Medical Ethicist, Veterans Health Administration, National Center for Ethics in Health Care, (10P6), 810 Vermont Avenue NW.,

Washington DC, 20420, Telephone: (202) 461–4020 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In November 2005, the White House released the National Strategy for Pandemic Influenza to guide preparedness and response to an influenza pandemic, with the intent of (1) stopping, slowing or otherwise limiting the spread of a pandemic to the United States; (2) limiting the domestic spread of a pandemic, and mitigating disease, suffering and death; and (3) sustaining infrastructure and mitigating impact to the economy and the functioning of society." The strategy is organized around 3 pillars: Preparedness & Communication, Surveillance & Detection, and Response & Containment. These pillars have been used to prepare for multiple influenza threats, such as H5N1 avian influenza. It also guided the government's response to the 2009 H1N1 pandemic.

In the National Strategy, the White House identified Federal responsibilities for the development of guidance and response planning during a severe flu pandemic, including guidance for the allocation of scarce health and medical resources. As part of this task, VA's National Center for Ethics in Health Care developed a *Guidance* document to provide a framework for decision making in VHA about three major ethical challenges related to a severe pandemic influenza. Those challenges are: (1) How can health care providers and the institution as a whole meet the obligation to provide care during an infectious disease outbreak? Specifically, what steps can the institution take to minimize risk to health care workers, so that they can continue coming to work to assist in patient care? (2) How can decision makers ethically allocate scarce resources? Specifically what steps are needed to ensure that decision making is transparent, reasonable, and fair? (3) How can decision makers take steps to limit the spread of disease but at the same time ensure the least restrictions on individual liberties? As the largest health care system in the United States, VA elected to address these difficult issues to ensure that VA is prepared to respond thoughtfully and consistently to severe and widespread health crises. For each of these challenges, the *Guidance* presents ethical principles and national guidance for VHA. The expectation is that VA leadership and health care professionals will use this information in pandemic workforce, communications, and patient care planning and response.

The *Guidance* has received feedback from VA clinicians and administrators as well as experts outside of VA. Because the *Guidance* document is anticipated to affect patients, their families, staff, and the VA community as a whole, the NCEHC is inviting Veterans, members of the general public and interested parties from relevant Federal, State, and professional bodies to provide feedback through written comments. The goal of this Notice is to ensure that people who may be directly affected during a severe influenza pandemic have an opportunity to contribute to the development of ethical concepts and processes that will guide VA emergency planning. VA is aware that there are no perfect approaches to managing a catastrophe, but we still believe that with forward thinking and incorporation of broad public input and lessons learned from the 2009 H1N1 pandemic, we can develop the best possible, most scientifically- and ethically-informed approaches. We believe this approach, led by VA, stands the best chance of developing a sound model to serve as framework for other public and private healthcare organizations on a national scale and beyond.

Comments are invited in response to the following:

1. Does the *Guidance* include the range of ethical issues relevant to pandemic influenza planning and response that are of concern to you? Are there other issues that you would like to see addressed in the VA *Guidance*?

2. Does the *Guidance* support the needs of Veterans with regard to fair treatment during a public health crisis?

3. Does the *Guidance* support the needs of health care workers with regard to fair treatment during a public health crisis?

4. The *Guidance* presents a team process for allocation of scarce lifesaving resources based on illness severity, the likelihood of benefiting from treatment, and resource availability. Apart from maintaining accountability for an established decision process, the rationale for a team-based approach is to allow individual health care providers to maintain their focus treating individual patients. Do you think that this is a good and fair approach to making these difficult decisions?

5. Do you think that the key ethical concepts presented in the *Guidance* for pandemic influenza planning and response can also be used in VA's planning for other highly contagious illnesses? If so, are there important differences that we should keep in mind?

Any other comments/observations regarding the *Guidance* are welcome.

Availability: Persons with access to the Internet may obtain the document at: *http://www.ethics.va.gov/activities/pandemic_influenza_preparedness.asp.* Alternatively, the guidance may be obtained by mail by calling NCEHC at (202) 501–0364 (this is not a toll-free number).

Dated: February 2, 2012.

Robert C. McFetridge,

Director, Regulation Policy & Management, Office of the General Counsel Department of Veterans Affairs.

[FR Doc. 2012–2777 Filed 2–7–12; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutant Emissions: Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; and Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–0600; FRL–9626–7]

RIN 2060–AQ60

National Emission Standards for Hazardous Air Pollutant Emissions: Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; and Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This action supplements our proposed amendments to National Emission Standards for Hazardous Air Pollutant Emissions for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; and Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants, which were published on October 21, 2010 (75 FR 65068, October 21, 2010). In that action, EPA proposed amendments to these NESHAP under section 112(d)(6) and (f)(2) of the Clean Air Act. Specifically, this action presents a new technology review and a new residual risk analysis for chromium electroplating and anodizing facilities and proposes revisions to the NESHAP based on those reviews. This action also proposes to remove an alternative compliance method for Steel Pickling hydrochloric acid regeneration plants. Finally, this action proposes to incorporate electronic reporting requirements into both NESHAP.

DATES: Comments must be received on or before March 26, 2012. Under the Paperwork Reduction Act, comments on the information collection provisions are best assured of having full effect if the Office of Management and Budget (OMB) receives a copy of your comments on or before March 9, 2012.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by February 21, 2012, a public hearing will be held on February 23, 2012.

ADDRESSES: You may submit comments, identified by Docket ID No. EPA–HQ–OAR–2010–0600, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov:* Follow the instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2010–0600 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2010–0600.
- *Mail:* U.S. Postal Service, send comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA–HQ–OAR–2010–0600, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. Attention Docket ID No. EPA–HQ–OAR–2010–0600. 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–OAR–2010–0600. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or email. The *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 email comment directly to EPA without going through *www.regulations.gov,* your email 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.*

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2010–0600. All documents in the docket are listed in the *www.regulations.gov* index. 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. Phil Mulrine, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5289; fax number: (919) 541–3207; and email address: *mulrine.phil@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Mark Morris, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5416; fax number: (919) 541–0840; and email address: *morris.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of this Document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

The regulated industrial source categories that are the subject of this proposal are listed in Table 1 to this preamble. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the proposed action for the source categories listed. These standards, and any changes considered in this rulemaking, would be directly applicable to sources as a federal program. Thus, federal, state, local, and tribal government entities are not affected by this proposed action. Table 1 shows the regulated categories affected by this proposed action.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

NESHAP and source category		NAICS code [1]	MACT code [2]
Chromium Electroplating NESHAP, Subpart N	Chromium Anodizing Tanks	332813	1607
	Decorative Chromium Electroplating	332813	1610
	Hard Chromium Electroplating	332813	1615
Steel Pickling—HCl Process Facilities And Hydrochloric Acid Regeneration Plants NESHAP, Subpart CCC		3311, 3312	0310

[1] North American Industry Classification System.
[2] Maximum Achievable Control Technology.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the World Wide Web (WWW) through the Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of this proposed action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* The TTN provides information and technology exchange in various areas of air pollution control.

Additional information is available on the residual risk and technology review (RTR) web page at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes source category descriptions and detailed emissions and other data that were used as inputs to the risk assessments.

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID Number EPA–HQ–OAR–2010–0600.

D. When would a public hearing occur?

If a public hearing is held, it will be held at 10:00 a.m. on February 23, 2012 and will be held at a location to be determined. Persons interested in presenting oral testimony at the hearing should contact Mr. Phil Mulrine, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5289; fax number: (919) 541–3207; email address: *mulrine.phil@epa.gov.*

II. Background Information

A. Overview of the Chromium Electroplating and Chromium Anodizing Source Categories

The Chromium Electroplating NESHAP regulates emissions of chromium compounds from three source categories: hard chromium electroplating, decorative chromium electroplating, and chromium anodizing. The NESHAP apply to both major sources and area sources. The NESHAP were promulgated on January 25, 1995 (60 FR 4963) and codified at 40 CFR part 63, subpart N. We proposed amendments to the NESHAP on June 5, 2002 (67 FR 38810) to address issues related to changes in control technology, monitoring and implementation. The amendments were promulgated on July 19, 2004 (69 FR 42885).

1. Hard Chromium Electroplating

The Hard Chromium Electroplating source category consists of facilities that plate base metals with a relatively thick layer of chromium using an electrolytic process. Hard chromium electroplating provides a finish that is resistant to wear, abrasion, heat, and corrosion. These facilities plate large cylinders and industrial rolls used in construction equipment and printing presses, hydraulic cylinders and rods, zinc die castings, plastic molds, engine components, and marine hardware.

The NESHAP distinguishes between large hard chromium electroplating facilities and small hard chromium electroplating facilities. Large hard chromium electroplating facilities are defined as any such facility with a cumulative annual rectifier capacity equal to or greater than 60 million ampere-hours per year (amp-hr/yr). Small hard chromium electroplating facilities are defined as any facility with a cumulative annual rectifier capacity less than 60 million amp-hr/yr. The NESHAP requires all affected tanks located at large hard chromium electroplating facilities to meet an emissions limit of 0.015 milligrams per dry standard cubic meter (mg/dscm). Alternatively, large hard chromium facilities also can comply with the NESHAP by maintaining the surface tension limits in affected tanks equal to or less than 45 dynes per centimeter (dynes/cm), if measured using a stalagmometer, or 35 dynes/cm, if measured using a tensiometer.

The Chromium Electroplating NESHAP requires affected tanks at existing small hard chromium electroplating facilities to meet an emissions limit of 0.030 mg/dscm and affected tanks at new small hard chromium electroplating facilities to meet a limit of 0.015 mg/dscm. Alternatively, these sources have the option of complying with surface tension limits equal to or less than 45 dynes per centimeter (dynes/cm), if measured using a stalagmometer, or 35 dynes/cm, if measured using a tensiometer. Under the current NESHAP, any small hard chromium electroplating tank for which construction or reconstruction was commenced on or before December 16, 1993 (*i.e.*, the proposal date for the original NESHAP) is subject to the existing source standards and any small hard chromium electroplating tank constructed or reconstructed after December 16, 1993 is subject to new source standards.

We estimate that there currently are approximately 230 large hard chromium electroplating facilities and 450 small hard chromium electroplating facilities in operation. Of the 450 small hard chromium electroplating facilities, we estimate that 150 of these facilities have one or more tanks that are subject to the new source standards, and the affected sources at the other 300 facilities are subject to the existing source standards.

2. Decorative Chromium Electroplating

The Decorative Chromium Electroplating source category consists of facilities that plate base materials such as brass, steel, aluminum, or plastic with layers of copper and nickel, followed by a relatively thin layer of chromium to provide a bright, tarnish- and wear-resistant surface. Decorative chromium electroplating is used for items such as automotive trim, metal furniture, bicycles, hand tools, and plumbing fixtures. We estimate that there currently are approximately 590 decorative chromium electroplating plants in operation. The NESHAP requires all existing and new decorative chromium electroplating sources to meet an emissions limit of 0.01 mg/dscm, or meet the surface tension limits of 45 dynes/cm, if measured using a stalagmometer, or 35 dynes/cm, if measured using a tensiometer.

3. Chromium Anodizing

The Chromium Anodizing source category consists of facilities that use chromic acid to form an oxide layer on aluminum to provide resistance to corrosion. The chromium anodizing process is used to coat aircraft parts (such as wings and landing gears) as well as architectural structures that are subject to high stress and corrosive conditions. We estimate that there currently are about 180 chromium anodizing plants in operation. The NESHAP requires all existing and new chromium anodizing sources to meet an emissions limit of 0.01 mg/dscm, or meet the surface tension limits of 45 dynes/cm, if measured using a stalagmometer, or 35 dynes/cm, if measured using a tensiometer.

B. What is the history of the chromium electroplating and chromium anodizing risk and technology reviews?

Pursuant to section 112(f)(2) of the CAA, we evaluated the residual risk associated with the NESHAP in 2010. At that time, we also conducted a technology review, as required by section 112(d)(6). Based on the results of our initial residual risk and technology reviews, we proposed on October 21, 2010 (75 FR 65071) that the risks due to HAP emissions from these source categories were acceptable and that no additional controls were necessary to provide an ample margin of safety to protect public health because we had not identified additional controls that would reduce risk at reasonable costs. Thus, we did not propose to revise the NESHAP under 112(f)(2). However, as explained in that proposal publication, we were concerned about the potential cancer risks due to emissions from this category and asked for additional information and comments on this issue.

As a result of our technology review in 2010, we proposed the following amendments to the NESHAP to:

- Incorporate several housekeeping practices into 40 CFR 63.342(f);
- phase out the use of wetting agent fume suppressants (WAFS) based on perfluorooctyl sulfonates (PFOS);
- revise the startup, shutdown, and malfunction provisions (SSM) in the rule;
- revise the monitoring and testing requirements; and,
- make a few technical corrections to the NESHAP.

The comment period for the October 21, 2010 proposal ended on December 6, 2010, and we are not re-opening the comment period on those issues. However, we will address the comments we received during the October 21, 2010 to December 6, 2010 public comment period at the time we take final action.

C. Overview of the Steel Pickling Source Category

Steel pickling is a treatment process in which the heavy oxide crust or mill scale that develops on the steel surface during hot forming or heat treating is removed chemically in a bath of aqueous acid solution. Pickling is a process applied to metallic substances that removes surface impurities, stains,

or crusts to prepare the metal for subsequent plating (*e.g.*, with chromium) or other treatment, such as galvanization or painting. An acid regeneration plant is defined in the rule as the equipment and processes that regenerate fresh hydrochloric acid pickling solution from spent pickle liquor using a thermal treatment process. The HAP emission points from the steel pickling process include steel pickling baths, steel pickling sprays, and tank vents. The HAP emission point from acid regeneration plants is the spray roaster.

We estimate that there are approximately 80 facilities subject to the MACT standards that are currently performing steel pickling and/or acid regeneration. Many of these facilities are located adjacent to integrated iron and steel manufacturing plants or electric arc furnace steelmaking facilities (minimills) that produce steel from scrap. Facilities that regenerate HCl may or may not be located at steel pickling operations.

D. What is the history of the steel pickling risk and technology review?

Pursuant to section 112(f)(2) of the CAA, we evaluated the residual risk associated with the NESHAP in 2010. We also conducted a technology review, as required by section 112(d)(6) of the CAA. Based on the results of our residual risk assessment, we proposed on October 21, 2010 that the risks were acceptable and that there were no additional cost effective controls to reduce risk further and that the NESHAP provides an ample margin of safety to protect public health and prevented an adverse environmental effect. In that notice, we also proposed no changes based on the technology review because we did not identify any new, feasible technologies that warranted changes to the NESHAP. We are not taking comment on these proposed determinations.

E. What data collection activities were conducted to support this action?

1. Chromium Electroplating and Chromium Anodizing Source Categories

Several commenters expressed concern that the data set used in the risk assessment that was relied on for the October 2010 proposal was not based on actual data from an adequate number of facilities and was not representative of the current chromium electroplating industry. In response to these comments, we contacted 28 State and local air pollution control agencies to request information on the industry. The requested information included facility data (name, location, number of employees), process type, tank design and operating parameters, annual hours of operation, emission control technology, control device operating parameters, emission test data, and other available supporting documents, such as emission inventory reports and operating permits. Agencies were asked to provide data on the 5 to 10 facilities that were likely to have the highest risk based on either chromium emissions or close proximity to sensitive receptors, and any additional facilities for which the data were readily available. The agencies were also asked to review the list of facilities we had in our Chromium Electroplating Database and update the list to the extent that they had more recent information on plant closings, new plants, or changes in processes.

We received the most current data available from a total of 24 agencies. We supplemented the data provided by the agencies with additional information we obtained from operating permits and other information downloaded from State Web sites. We also received some data from an industry organization (*i.e.*, the National Association for Surface Finishing, located in Washington, DC). The updated data set included information on 346 plants. After eliminating redundancies in the data and deleting data for facilities that were no longer in operation or no longer performing chromium electroplating or anodizing, the new data set included annual emissions for 301 plants currently in operation. Of these, approximately 128 plants were located in California, and 173 plants were located in other States. Finally, we performed a quality control check of plant geographic coordinates and updated the coordinates for approximately 400 plants, focusing on those plants most likely to have high emissions.

We believe the current data set to be significantly better than the data set we relied on for the 2010 proposal for a number of reasons. The current data set provides improved emissions estimates for many facilities, based on actual emissions test data; provides actual emissions data for a larger number of facilities than had been modeled for the 2010 proposal; includes an updated plant list that accounts for facilities that have opened recently and eliminates nearly 200 plants that have recently closed or have stopped performing chromium electroplating; includes more plant-specific data on numbers and types of electroplating tanks, types of emissions controls, and control system operating parameters; and corrected geographic locations (latitudes, longitudes) for hundreds of chromium electroplating and anodizing facilities.

For the October 21, 2010, proposal we used the actual emissions data available at the time, which covered far fewer plants, and, in many cases, were based on general emission factors and other data not specific to the plant in question. To fill in data gaps for the October 2010 proposal, we relied on plant capacity, process design, process operating, and control device data collected during the development of the original MACT standard in the early 1990's to develop a series of model plants for each process (hard chromium electroplating, decorative chromium electroplating, and chromium anodizing). We used theoretical emissions estimates for the model plants to represent actual facilities in operation. As we have collected much more data on actual emissions from facilities currently in operation, we now realize that the emission estimates based on pre-MACT data used for the October proposal significantly overestimated emissions. In addition, we modeled all of the unknown facilities (*i.e.*, the facilities where we did not know the type of plating) using the hard chromium electroplating emission factor developed from the model plants. Since hard chromium electroplating facilities have the highest emissions among the three source categories this resulted in very conservative estimates of emissions for those unknown sources.

The list of plants in our current data set much better reflects the current status of the industry. First, it better reflects the status because we have greatly improved the locations of several hundred plants, which is critical in assessing risk. Second, the emissions data in the current data set better reflect actual emissions from facilities currently in operation because it reflects emission levels since implementation of the NESHAP.

In addition, having more accurate data on such things as the emission controls in use, the number of affected electroplating and anodizing tanks, tank operating parameters, facility types, stack parameters (such as exhaust flow rates), and other information allowed us to better estimate current nationwide emissions and the cost and environmental impacts associated with the control options. More details on the data collection activities for this supplemental proposal are provided in the technical document "Information on Chromium Electroplating Facilities Collected from State and Local Agencies from January to March 2011," which is available in the docket for this action.

Additional details on the industry data collected are provided in the technical document "Profile of Chromium Electroplating Processes and Emissions," which is available in the docket for this action.

2. Steel Pickling Source Category

We had sufficient emissions data for this source category at the time of the October 21, 2010 proposal for the risk analysis. Nevertheless, subsequent to the close of the comment period, we gathered more data and information regarding the status of facility processes and controls, and we further evaluated the MACT rule to determine if any updates or corrections would be appropriate.

III. Analyses Performed

A. How did we perform the technology review?

For our October 2010 proposal, we performed several activities for purposes of evaluating developments in practices, processes, and control technologies for the chromium electroplating source categories: (1) We reviewed comments received on the proposed 2002 amendments to the Chromium Electroplating NESHAP (67 FR 38810, June 5, 2002) to determine whether they identified any developments that warranted further consideration; (2) we reviewed the supporting documentation for the 2007 amendments to California's Airborne Toxic Control Measure (ATCM) for Chromium Plating and Chromium Anodizing Facilities; and (3) we searched the RACT/BACT/LAER Clearinghouse (RBLC) and the Internet to identify other practices, processes, or control technologies that could be applied to chromium electroplating.

The October 21, 2010 proposal of the Chromium Electroplating NESHAP identified four developments in practices, processes, and control technologies that were considered for the technology review: emission elimination devices, high efficiency particulate air (HEPA) filters, wetting agent fume suppressants (WAFS), and housekeeping practices. These technologies and practices are described in detail in the October 2010 proposal. Furthermore, our initial analyses, findings, and conclusions regarding these developments are discussed in the preamble to the October 2010 proposal. The following paragraphs describe additional analyses that were performed for today's supplemental proposal.

1. Emissions Limits

a. Large Hard Chromium Electroplating. Most large hard chromium facilities currently have one or more add-on control devices such as packed bed scrubbers (PBS), composite mesh pad (CMP) scrubbers, mesh pad mist eliminators (MPMEs), high efficiency scrubbers, or HEPA filters. Some facilities use add-on controls plus WAFS to limit emissions. However, some facilities control their emissions using only WAFS and have no add-on control device.

To evaluate how effective the emission control technologies currently used on existing large hard chromium electroplating sources are in reducing emissions and meeting the emissions limit, we compiled the available data on emission concentration (mg/dscm) we collected from the 24 State and local agencies and ranked the data from lowest to highest. We have data from 75 tanks located at 38 facilities. We then reviewed the data to better understand where existing sources operated with respect to the emissions limit. That is, we looked at the number of sources that operated at or below various emission levels, including 75 percent of the emissions limit, 50 percent of the emissions limit, and 40 percent of the emissions limit.

The data indicate that most of these sources operate well below the 0.015 mg/dscm emissions limit. For example, approximately 88 percent of existing sources operate at less than 75 percent of the emissions limit (*i.e.,* below 0.011 mg/dscm); 72 percent of sources operate at less than 50 percent of the emissions limit (*i.e.,* below 0.0075 mg/dscm); and about 67 percent of existing large hard chromium electroplating sources achieve emissions below 0.006 mg/dscm. We then considered several options for reducing the emissions and weighed the costs and emissions reductions associated with each option. Further discussion of these options and the proposed decisions are presented in section IV below.

For purpose of addressing new large chromium electroplating facilities, we considered the feasibility of a more stringent emissions limit. Specifically, we examined what emission level could be met using available add-on control devices (such as with a CMP, MPME, or high efficiency scrubber) or a combination of add-on controls (such as a CMP plus a HEPA filter or an MPME plus a HEPA filter) and the emissions concentrations that could be achieved by using a combination of add-on control technology and WAFS. The results of this analysis and the proposed decisions are described in section IV below.

b. Small Hard Chromium Electroplating. For small hard chromium electroplating facilities, we performed the same type of analyses described in the previous section for large hard chromium electroplating. In terms of emissions limits, the NESHAP distinguishes between existing facilities, which are subject to an emissions limit of 0.030 mg/dscm, and new facilities, which are subject to an emissions limit of 0.015 mg/dscm. We compiled and ranked the available data, which also indicate that the large majority of sources operate well below the current emissions limits. We have data on emissions concentrations for 73 tanks at 56 facilities located in States other than California which were used for this ranking. We estimate that there are a total of 414 small hard chromium plants located in States other than California. We estimate that there are a total of 450 plants nationwide, with about 36 plants located in California. We considered different options for reducing the emissions limits. We also considered removing the existing distinction between existing and new, as they are currently defined in the NESHAP, because many of the "new" facilities have been in operation for more than 17 years and we were considering proposing a more stringent new source standard for all sources. We evaluated the impacts, in terms of costs and emissions reductions, that would result for various potential proposed emissions limits at or below 0.015 mg/dscm. We did not evaluate potential limits greater than 0.015 mg/dscm since about one-third of the currently operating small hard chromium sources are already subject to an emissions limit of 0.015 mg/dscm. Specifically, we considered two main options: (1) Propose that all small hard chromium electroplating facilities currently in operation meet an emissions limit of 0.015 mg/dscm, and (2) propose that all small hard chromium electroplating facilities currently in operation meet an emissions limit of 0.010 mg/dscm. The results of this analysis and the proposed decisions are described in section IV below.

We also considered revising the definition of new small hard chromium electroplating facilities, based on the proposal date for this action, and requiring those facilities to meet a more stringent emissions limit. The results of this analysis and the proposed decisions are described in section IV below.

c. Decorative Chromium Electroplating. For decorative chromium electroplating, we intended to perform

analyses similar to that performed for hard chromium electroplating. However, the data set for decorative chromium electroplating was much smaller (*e.g.*, 20 data points for decorative chromium electroplating vs. 75 data points for large hard chromium), and we did not think the data were adequate for considering several different emissions reductions options. The primary reason for the smaller data set is that the most commonly used method for controlling emissions from decorative chromium electroplating is adding WAFS to the electroplating tank bath. Since sources that use WAFS and comply with the surface tension limits are not required to conduct an emission test, there are limited test data available.

However, we did rank the available data on existing sources in the decorative chromium electroplating source category by emissions level to determine the typical level of emissions performance and range of performance among those sources to determine options for revising these limits. All the facilities for which we have data have emissions concentrations less than 0.007 mg/dscm (*i.e.*, at least 30 percent below the applicable emissions limit of 0.010 mg/dscm). Further discussion of this analysis and the proposed decisions for existing and new decorative chromium electroplating sources are presented in section IV below.

d. Chromium Anodizing. In the case of chromium anodizing, we had only a single data point (0.0016 mg/dscm), which is significantly below the current emissions limit of 0.010 mg/dscm. However, we concluded that the data on decorative chromium electroplating was relevant to determining the feasible options for chromium anodizing. For one, many chromium anodizing sources (approximately 50 percent) are controlled using only WAFS. It was for this reason that the current NESHAP specifies the same emissions limits of 0.010 mg/dscm for both chromium anodizing and decorative chromium electroplating sources. In addition, chromium anodizing plants are comparable to decorative chromium electroplating plants with respect to the relative magnitude of chromium emissions. Finally, the feasibility and options for controlling emissions from chromium anodizing are similar to those for decorative chromium. Further discussion of this analysis and the proposed decisions for existing and new chromium anodizing sources are presented in section IV below.

2. Surface Tension Limits

The NESHAP provides that affected sources must either meet an emissions limit specified in the NESHAP or must maintain the surface tension in chromium electroplating or chromium anodizing tanks below one of two specified surface tension limits, depending on the type of instrument used to measure surface tension. Despite the fact that the emissions limits for the three chromium electroplating source categories differ, the surface tension limits in the current NESHAP are the same for all three source categories and are the same for existing and new sources, as follows: if a stalagmometer is used to measure surface tension, the surface tension limit is 45 dynes/cm, and, if a tensiometer is used, the surface tension limit is 35 dynes/cm. The available data, which are described in detail in the technical document "Development of Revised Surface Tension Limits for Chromium Electroplating and Anodizing Tanks Controlled with Wetting Agent Fume Suppressants," which is available in the docket, indicate that maintaining the surface tension below these limits ensures that emissions are below 0.01 mg/dscm, which is the most stringent limit currently in the NESHAP.

As part of the information collection described in section II.E of this preamble, we obtained test data for several decorative and hard chromium electroplating sources controlled using only WAFS. These data on surface tension and emission concentration were evaluated to determine the relationship between emissions and surface tension. We analyzed these data to evaluate the feasibility of requiring lower surface tension limits and the corresponding emissions levels. Further details of this analysis and the results, and the proposed decisions based on this analysis, are presented below in section IV.A.

B. For purposes of this supplemental proposal, how did we estimate the risk posed by each of the three chromium electroplating source categories?

The EPA conducted a risk assessment that provided estimates of the maximum individual risk (MIR) posed by HAP emissions from sources in the source category and the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects. The assessment also provided estimates of the distribution of cancer risks within the exposed populations, cancer incidence, and an evaluation of the potential for adverse environmental effects for each source category. The docket for this rulemaking contains the following document which provides more information on the risk assessment inputs and models: Residual Risk Assessment for the Chromic Acid Anodizing, Decorative Chromium Electroplating, and Hard Chromium Electroplating Source Categories. The methods used to assess risks are consistent with those peer-reviewed by a panel of the EPA's Science Advisory Board (SAB) in 2009 and described in their peer review report issued in 2010 [1]; they are also consistent with the key recommendations contained in that report.

1. Estimating Actual Emissions

As explained previously, the revised data set for the Chromium Electroplating NESHAP source categories includes significantly improved emissions data for many more plants than the data set used for the October 2010 proposal. However, to assess nationwide residual risk, it was still necessary to estimate emissions for much of the industry. Rather than estimate those emissions using the model plant approach used for the October 2010 proposal, we used a Monte Carlo procedure to simulate actual emissions for those plants for which actual emissions data were not available. The simulation model used the pool of available data on actual emissions concentrations, exhaust flow rates, and annual operating hours for each process type (hard chromium electroplating, decorative chromium electroplating, and chromium anodizing). Actual emissions data (lbs/yr) were fitted to a Weibull distribution and emissions for plants for which emissions were unknown were simulated using the actual data for each plant type. Because process-specific data were used to simulate emissions for each facility, it was necessary to identify the process type for each of the plants. Although the process type was known for many plants, it was unknown for a large number of other plants. By scaling up the data on known plants, and using other available data on the industry, the profile of the current chromium electroplating industry was estimated in terms of the number of each type of plant.

One of the primary goals in simulating actual annual emissions was to develop a data set of emissions estimates that best represents chromium electroplating plants operating in the U.S. For this reason, a distinction was made between chromium electroplating plants located in California and plants located elsewhere (*i.e.*, the non-

[1] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing*, May 2010.

California plants). Because chromium electroplating plants located in California are subject to emissions limits that are significantly more stringent than the limits specified in the NESHAP, they typically use multiple emissions controls, including HEPA filters in many cases, to reduce emissions. Thus, emissions for California plants are not representative of emissions for non-California plants. For this reason, the data on California plants were not included in the data set used to simulate emissions for plants located in other States. However, the data on actual emissions from plants located in California were used to estimate emissions for other plants in California. Thus, we did not exclude the California data from the overall analysis; we treated the data from plants in California differently. (Additional details on the emissions data for the California plants are provided below.) Based on the total numbers of plants nationwide, plant types were randomly assigned to each of the unknown plants, while ensuring that the total numbers of each type of plants nationwide were preserved. After assigning plant types, emissions for each plant was simulated 5,000 times using only the data for that specific type of plant (*e.g.*, only data for small hard chromium electroplating plants were used to simulate emissions for a small hard chromium electroplating plant). Once all 5,000 simulations were completed, the mean of the simulated values for each plant was determined and that value was used to populate the risk modeling file on actual emissions.

Taking into account all of the new emissions data collected following the public comment period for the October 2010 proposal, plus the good quality emissions data collected previously, the data set included emissions estimates for a total of 301 plants. Of these, approximately 128 plants were located in California, and 173 plants were located in other States. A review of the data indicated that emissions for the California plants were significantly lower than emissions for the non-California plants. For example, emissions from the large hard chromium electroplating plants in California averaged 0.027 lbs/yr, whereas the average for the non-California large hard chromium plants was 2.62 lbs/yr. For small hard chromium electroplating, the California plants averaged 0.0095 lbs/yr and the non-California plants averaged 0.56 lbs/yr. For decorative chromium electroplating, the average emissions were 0.00042 lbs/yr (California) and 0.55 lbs/yr (non-California). For chromium anodizing, the average emissions were 0.00035 lbs/yr (California) and 0.46 lbs/yr (non-California). These results clearly indicated that the data for plants in California were not representative of plants located outside of California. For this reason, all subsequent analyses related to estimating emissions for plants located outside of California were performed using only data for non-California plants.

For the California plants we used the emissions estimates as reported. For all the plants outside of California, we used actual emissions estimates if they were available. For the other plants we used the simulation model described above to estimate emissions.

Overall, we believe that the resulting emissions simulated by the model are much more representative of actual emissions on average and also are more representative of the variability of emissions from plant to plant. Additional details on the simulation approach can be found in the emissions technical document "Simulation of Actual and Allowable Emissions for Chromium Electroplating Facilities." which is available in the docket for this rulemaking.

2. Estimating MACT-Allowable Emissions

To estimate allowable annual emissions (*e.g.*, lbs/yr) for those plants for which actual emissions concentration data were available, we calculated the allowable annual emissions using the MACT emissions limit. In other words, we scaled up actual annual emissions for those plants using the ratio of the emissions concentration (measured during the performance test) to the MACT limit. For example, if the measured concentration for a large hard chromium plant was 0.0075 mg/dscm, which is one-half of the 0.015 mg/dscm emissions limit, we scaled up annual emissions by a factor or 2. For those plants for which we did not have actual emissions data, we used the same emissions simulation approach used to estimate actual emissions, as described previously. That is, data for California plants were excluded from the analysis; process types were assigned to each plant for which the process was unknown, while ensuring that the total number of each type of plant matched the estimated numbers of plants nationwide; and a Monte Carlo simulation model was developed using the pool of available data on emissions concentrations, exhaust flow rates, and annual operating hours for each process type to simulate allowable emissions for each plant. However, instead of using the actual emissions concentration data in the simulation model, we used the corresponding MACT emissions limit. Thus, we calculated the allowable emissions by using the pool of available data on exhaust flow rates and annual operating hours for each process type and assumed each source had emissions concentrations equal to the MACT emissions limit (*i.e.*, we assumed they were emitting at the maximum level allowed by the MACT standard). For example, to estimate the allowable emissions for a large hard chromium electroplating plant, data on large hard chromium plant exhaust flow rates and annual operating hours were used, along with an emissions concentration of 0.015 mg/dscm, which is the emissions limit specified in the NESHAP for large hard chromium electroplating plants. As was used for calculating actual emissions estimates, 5,000 simulations were performed for each plant, and the average of simulated values was used to represent allowable emissions for the plant. Additional details on the simulation approach can be found in the emissions technical document "Simulation of Actual and Allowable Emissions for Chromium Electroplating Facilities," which is available in the docket for this rulemaking.

3. Conducting Dispersion Modeling, Determining Inhalation Exposures, and Estimating Individual and Population Inhalation Risks

Both long-term and short-term inhalation exposure concentrations and health risks from the three chromium electroplating source categories were estimated using the Human Exposure Model (HEM–3). The HEM–3 performs three of the primary risk assessment activities listed above: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources, and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

The air dispersion model used by the HEM–3 model (AERMOD) is one of the EPA's preferred models for assessing pollutant concentrations from industrial facilities.[2] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3

[2] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year of hourly surface and upper air observations for approximately 200 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library, of United States Census Bureau census block[3] internal point locations and populations, provides the basis of human exposure calculations (Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant unit risk factors and other health benchmarks is used to estimate health risks. These risk factors and health benchmarks are the latest values recommended by the EPA for HAP and other toxic air pollutants. These values are available at *http://www.epa.gov/ttn/atw/toxsource/summary.html* and are discussed in more detail later in this section.

In developing the risk assessment for chronic exposures, we used the estimated annual average ambient air concentrations of chromium emitted by each source. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, and 52 weeks per year for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks were calculated by multiplying the estimated lifetime exposure to the ambient concentration of chromium (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE), which is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use URE values from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without the EPA IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) URE values, where available. In cases where new, scientifically credible dose response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

Incremental individual lifetime cancer risks were estimated as the sum of the risks for each of the carcinogenic HAP (including those classified as carcinogenic to humans, likely to be carcinogenic to humans, and suggestive evidence of carcinogenic potential[4]) emitted by the modeled source. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of the sources were also estimated for the source category as part of this assessment by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044) and the limitations of Gaussian dispersion models, including AERMOD.

To assess the risk of non-cancer health effects from chronic exposures, we summed the HQ for each of the HAP that affects a common target organ system to obtain the HI for that target organ system (or target organ-specific HI, TOSHI). The HQ is the estimated exposure divided by the chronic reference value, which is either the EPA reference concentration (RfC), defined as "an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime," or, in cases where an RfC from the EPA's IRIS database is not available, the EPA will utilize the following prioritized sources for our chronic dose-response values: (1) The Agency for Toxic Substances and Disease Registry Minimum Risk Level, which is defined as "an estimate of daily human exposure to a substance that is likely to be without an appreciable risk of adverse effects (other than cancer) over a specified duration of exposure"; (2) the CalEPA Chronic Reference Exposure Level (REL), which is defined as "the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration"; and (3), as noted above, in cases where scientifically credible dose-response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use those dose-response values in place of or in concert with other values.

4. Conducting Multipathway Exposure and Risk Screening

As explained in the October 2010 proposal, chromium electroplating facilities do not emit any of the 14 PB–HAP compounds or compound classes identified for the multipathway screening in the EPA's Air Toxics Risk Assessment Library (available at *http://www.epa.gov/ttn/fera/risk_atra_vol1.html*). Because none of these PB–HAP are emitted by sources in the chromium electroplating source categories, we concluded at the time of the proposal that there is low potential for significant non-inhalation human or environmental risks for these source categories. The data we received since proposal continues to indicate that chromium electroplating sources do not emit any of those 14 PB–HAP compounds or compound classes.

5. Conducting Other Analyses: Facility-Wide Risk Assessments and Demographic Analyses

a. Facility-Wide Risk

To put the source category risks in context, we examined the risks from the entire "facility," where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, for each facility that includes one or more sources from a source category under review, we examined the HAP emissions not only from that source category, but also emissions of HAP from all other emission sources at the facility. The emissions data for generating these "facility-wide" risks were obtained from the 2005 NEI. We analyzed risks due to the inhalation of HAP that are emitted "facility-wide" for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, the modeled source category risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to each of the three chromium electroplating source categories. We specifically examined the facility that was associated with the

[3] A census block is the smallest geographic area for which census statistics are tabulated.

[4] These classifications also coincide with the terms "known carcinogen, probable carcinogen, and possible carcinogen," respectively, which are the terms advocated in the EPA's previous *Guidelines for Carcinogen Risk Assessment*, published in 1986 (51 FR 33992, September 24, 1986). Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's Science Advisory Board (SAB) in their 2002 peer review of EPA's National Air Toxics Assessment (NATA) entitled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory*, available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf*.

highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The risk documentation available through the docket for this action provides all facility-wide risks and the percentage of source category contribution for the three chromium electroplating source categories.

The methodology and results of the facility-wide analyses for each source category are included in the residual risk documentation as referenced in section IV of this preamble, which is available in the docket for this action.

b. Demographic Analysis

To examine the potential for any environmental justice (EJ) issues that might be associated with these source categories, we performed demographic analyses of the at-risk populations for two of the three chromium electroplating categories. We performed these analyses for only these two source categories because the chromium anodizing source category is not associated with significant populations with estimated cancer risks above 1 in a million. For the hard and decorative chromium electroplating source categories, we evaluated the percentages of different social, demographic and economic groups within the populations living near the facilities who were estimated to be subjected to cancer risks greater than 1 in a million due to HAP emissions from chromium electroplating. We compared the percentages of these demographic groups to the total percentages of those demographic groups nationwide. The methodology and results of the demographic analyses are included in the technical reports: "Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Hard Chromium Electroplating Facilities"; and "Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Decorative Chromium Electroplating Facilities." These reports are available in the docket for this action.

6. Considering Uncertainties in Risk Assessment

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source category addressed in this supplemental proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health-protective. A brief discussion of the uncertainties in the emissions data set, dispersion modeling, inhalation exposure estimates and dose-response relationships follows below. A more thorough discussion of these uncertainties is included in the risk assessment documentation available in the docket for this action.

a. Uncertainties in the Emissions Data Set

Although the development of the RTR data sets involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the data sets are inaccurate, errors in estimating emissions values, and other factors.

The emission estimates considered in this analysis generally are annual totals for certain years that do not reflect short-term fluctuations during the course of a year or variations from year to year. Additionally, although we believe that we have good data for hundreds of facilities in these source categories in our RTR data set, our data set does not include data for many other existing facilities.

To simulate emissions estimates for plants for which we did not have actual emissions estimates, separate data sets were compiled for each process type: large hard chromium electroplating, small hard chromium electroplating, decorative chromium electroplating, and chromium anodizing. The data sets included combinations of actual data on emissions concentrations, exhaust flow rates, annual operating hours, and hourly emission rates. In addition, assumptions were used to fill in some of the data gaps. For example, if, for a specific facility, data on all parameters except exhaust flow rate were known, the exhaust flow rate was estimated using average flow rate data for other plants of similar process (*e.g.*, large hard chromium electroplating). A similar procedure was used to estimate annual operating hours if all data except for annual operating hours were known. The relative sizes of the data sets used to simulate emissions also introduce various levels of uncertainty in the simulations: the smaller the data set, the greater the variability in the analysis, and the greater the uncertainty in the emissions estimates. For example, the data set for chromium anodizing was the smallest and, therefore, is expected to have the highest level of uncertainty; the data set for large hard chromium electroplating was the largest and is expected to have the lowest degree of uncertainty in the emissions simulations.

Moreover, even after collecting the additional information, we still had many sources in our data set for which we did not know the type of facility (*e.g.*, hard chromium electroplating, decorative chromium electroplating, or chromium anodizing). To assign source types to these unknown sources for the model input file, we first determined the percent of each of the type of sources among the sources for which we have data, then we assumed that the remaining unknown sources (those for which we did not know the source type) would comprise the same percentages for each type. Finally, we randomly assigned a source type to each unknown plant based on these percentages. For further details on these data, the simulation approach, and the associated uncertainties, see the technical document "Simulation of Actual and Allowable Emissions for Chromium Electroplating Facilities," which is available in the docket.

In terms of speciation, it was assumed that emissions from all chromium electroplating sources consisted of 98 percent hexavalent chromium and 2 percent trivalent chromium. The actual speciation of chromium in exhaust streams may vary slightly from source to source. However, historical data indicate that emissions from chromium electroplating sources are almost entirely comprised of hexavalent chromium, and the 98%/2% assumed speciation was believed to be representative of sources on average.

b. Uncertainties in Dispersion Modeling

While the analysis employed the EPA's recommended regulatory dispersion model, AERMOD, we recognize that there is uncertainty in ambient concentration estimates associated with any model, including AERMOD. In circumstances where we had to choose between various model options, where possible, model options (*e.g.*, rural/urban, plume depletion, chemistry) were selected to provide an overestimate of ambient air concentrations of the HAP rather than underestimates. However, because of practicality and data limitation reasons, some factors (*e.g.*, meteorology, building downwash) have the potential in some situations to overestimate or underestimate ambient impacts. For example, meteorological data were taken from a single year (1991) and facility locations can be a significant distance from the site where these data were taken.

c. Uncertainties in Inhalation Exposure

The effects of human mobility on exposures were not included in the

assessment. Specifically, short-term mobility and long-term mobility between census blocks in the modeling domain were not considered.[5] The assumption of not considering short or long-term population mobility does not bias the estimate of the theoretical MIR, nor does it affect the estimate of cancer incidence because the total population number remains the same. It does, however, affect the shape of the distribution of individual risks across the affected population, shifting it toward higher estimated individual risks at the upper end and reducing the number of people estimated to be at lower risks, thereby increasing the estimated number of people at specific high risk levels (*e.g.*, one in 10,000 or one in one million).

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live farther from the facility and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence.

The assessment evaluates the cancer inhalation risks associated with pollutant exposures over a 70-year period, which is the assumed lifetime of an individual. In reality, both the length of time that modeled emissions sources at facilities actually operate (*i.e.*, more or less than 70 years), and the domestic growth or decline of the modeled industry (*i.e.*, the increase or decrease in the number or size of United States facilities), will influence the future risks posed by a given source or source category. Depending on the characteristics of the industry, these factors will, in most cases, result in an overestimate both in individual risk levels and in the total estimated number of cancer cases. However, in rare cases, where a facility maintains or increases its emissions levels beyond 70 years, residents live beyond 70 years at the same location, and the residents spend most of their days at that location, then the risks could potentially be underestimated. Annual cancer incidence estimates from exposures to emissions from these sources would not be affected by uncertainty in the length of time emissions sources operate.

The exposure estimates used in these analyses assume chronic exposures to ambient levels of pollutants. Because most people spend the majority of their time indoors, actual exposures may not be as high, depending on the characteristics of the pollutants modeled. For many of the HAP, indoor levels are roughly equivalent to ambient levels, but for very reactive pollutants or larger particles, these levels are typically lower. This factor has the potential to result in an overstatement of 25 to 30 percent of exposures.[6]

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that should be highlighted. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and human activity patterns. In this assessment, we assume that individuals remain for 1 hour at the point of maximum ambient concentration as determined by the co-occurrence of peak emissions and worst-case meteorological conditions. These assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time of worst-case impact.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and non-cancer effects from both chronic and acute exposures. Some uncertainties may be considered quantitatively, and others generally are expressed in qualitative terms. We note as a preface to this discussion a point on dose-response uncertainty that is brought out in the EPA's 2005 Cancer Guidelines; namely, that "the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective" (EPA 2005 Cancer Guidelines, pages 1–7). This is the approach followed here, as summarized in the next several paragraphs. A complete detailed discussion of uncertainties and variability in dose-response relationships is given in the residual risk documentation which is available in the docket for this action.

Cancer URE values used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a "plausible upper limit to the true value of a quantity" (although this is usually not a true statistical confidence limit).[7] In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[8] When developing an upper bound estimate of risk and to provide risk values that do not underestimate risk, health-protective default approaches are generally used. To err on the side of ensuring adequate health protection, the EPA typically uses the upper bound estimates rather than lower bound or central tendency estimates in our risk assessments, an approach that may have limitations for other uses (*e.g.*, priority-setting or expected benefits analysis).

Chronic non-cancer reference concentration (RfC) and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. Specifically, these values provide an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure (RfC) or a daily oral exposure (RfD) to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. To derive values that are intended to be "without appreciable risk," the methodology relies upon an uncertainty factor (UF) approach, (U.S. EPA, 1993, 1994) which considers uncertainty, variability and gaps in the available data. The UF are applied to derive reference values that are intended to protect against appreciable risk of deleterious effects. The UF are commonly default values,[9] *e.g.*, factors of

[5] Short-term mobility is movement from one micro-environment to another over the course of hours or days. Long-term mobility is movement from one residence to another over the course of a lifetime.

[6] U.S. EPA. *National-Scale Air Toxics Assessment for 1996.* (EPA 453/R–01–003; January 2001; page 85.)

[7] IRIS glossary (*http://www.epa.gov/NCEA/iris/help_gloss.htm*).

[8] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

[9] According to the NRC report, *Science and Judgment in Risk Assessment* (NRC, 1994) "[Default] options are generic approaches, based on general scientific knowledge and policy judgment, that are applied to various elements of the risk assessment process when the correct scientific model is unknown or uncertain." The 1983 NRC report, *Risk Assessment in the Federal Government: Managing the Process*, defined default option as "the option chosen on the basis of risk assessment policy that appears to be the best choice in the

Continued

10 or 3, used in the absence of compound-specific data; where data are available, UF may also be developed using compound-specific information. When data are limited, more assumptions are needed and more UF are used. Thus, there may be a greater tendency to overestimate risk in the sense that further study might support development of reference values that are higher (*i.e.*, less potent) because fewer default assumptions are needed. However, for some pollutants, it is possible that risks may be underestimated.

While collectively termed "UF," these factors account for a number of different quantitative considerations when using observed animal (usually rodent) or human toxicity data in the development of the RfC. The UF are intended to account for: (1) Variation in susceptibility among the members of the human population (*i.e.*, inter-individual variability); (2) uncertainty in extrapolating from experimental animal data to humans (*i.e.*, interspecies differences); (3) uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure (*i.e.*, extrapolating from sub-chronic to chronic exposure); (4) uncertainty in extrapolating the observed data to obtain an estimate of the exposure associated with no adverse effects; and (5) uncertainty when the database is incomplete or there are problems with the applicability of available studies.

IV. Analytical Results and Proposed Decisions for the Three Chromium Electroplating Source Categories

A. What are the results and proposed decisions based on our technology review?

1. Emissions Limits for Large Hard Chromium Electroplating

a. Emissions Limits for Existing Large Hard Chromium Sources. As mentioned above, the available data from 75 tanks located at 38 facilities outside of California indicate that approximately 88 percent of existing large hard chromium electroplating sources located outside of California have emissions levels that are less than 75 percent of the current emissions limit (*i.e.*, below 0.011 mg/dscm); 72 percent of these sources emit at less than 50 percent of the emissions limit (*i.e.*, below 0.0075 mg/dscm); and about 60 percent of these sources achieve emissions below 0.006 mg/dscm. There are an additional 17 facilities located in California, which on average have considerably lower emissions compared to plants in other States. These findings demonstrate that the add-on emission control technologies and/or the fume suppressants used by the majority of facilities in this source category are very effective in reducing chromium emissions and that most facilities have emissions well below the current limit.

We considered three options to lower the emissions limit. Table 2 summarizes the emissions, costs, and cost effectiveness for these options, which are described further in the following paragraphs.

TABLE 2—SUMMARY OF OPTIONS CONSIDERED FOR POTENTIAL REVISED EMISSIONS LIMITS FOR LARGE HARD CHROMIUM ELECTROPLATING FACILITIES

Option	Number of plants affected	Emissions reductions, lbs/yr	Capital costs, $	Annualized costs, $/yr	Cost effectiveness, $/lb
Reduce emissions limit to 0.011 mg/dscm	41	121	$1,821,000	$2,196,000	$18,100
Reduce emissions limit to 0.0075 mg/dscm	76	169	2,847,000	4,182,000	24,700
Reduce emissions limit to 0.006 mg/dscm	97	180	3,414,000	5,368,000	29,900

The first option considered was to propose that large hard chromium electroplating plants meet an emissions limit of 0.011 mg/dscm, which is equivalent to a 25 percent reduction of the current emission limit. The second option evaluated was a limit of 0.006 mg/dscm since this is the level that would be equivalent to the concentration that can be achieved (based on the 99 percent upper tolerance limit) when WAFS are used to control emissions and the surface tension in the affected chromium electroplating tank is maintained at the level of the proposed revised surface tension limits (described in section IV.A.5). Finally, as a third option, we selected an emissions limit of 0.0075 mg/dscm for large hard chromium electroplating plants to provide an intermediate option that is more stringent than the first option of 0.011 mg/dscm, but less stringent than the second option of 0.006 mg/dscm.

As noted above, we considered the option of lowering the current emissions limit by 25 percent, which would result in a limit of 0.011 mg/dscm. Under this option, we estimate that 26 plants (11 percent of the total plants nationwide) would need to reduce emissions to comply with this option because they have emissions above 0.011 mg/dscm. We also assume that an additional 15 plants (6 percent) that have emissions close to this level (*i.e.*, have emissions concentrations greater than 0.009 mg/dscm) would likely need to make adjustments and reduce emissions to ensure continuous compliance with a limit of 0.011 mg/dscm. Therefore, overall we estimate that 41 of the existing large hard chromium facilities (about 18 percent of the total) would reduce emissions in order to ensure compliance with a new emissions limit of 0.011 mg/dscm. We assume that most of these 41 facilities would achieve these extra reductions with the addition of fume suppressants. The available data, which are described in the technical document "Development of Revised Surface Tension Limits for Chromium Electroplating and Anodizing Tanks Controlled with Wetting Agent Fume Suppressants," indicate that about 15 percent of sources in the large hard chromium electroplating industry outside of California use fume suppressants to supplement the level of control achieved by an add-on control device; for facilities located in California the percentage is even higher. However, we also assume that some facilities would need to install new add-on control devices or retrofit their existing controls to meet the proposed limit. The only costs for the other 192 facilities (82

absence of data to the contrary" (NRC, 1983a, p. 63). Therefore, default options are not rules that bind the Agency; rather, the Agency may depart from them in evaluating the risks posed by a specific substance when it believes this to be appropriate.

In keeping with EPA's goal of protecting public health and the environment, default assumptions are used to ensure that risk to chemicals is not underestimated (although defaults are not intended to overtly overestimate risk). See EPA. 2004, *An Examination of EPA Risk Assessment Principles and Practices*, EPA/100/B–04/001 available at: *http://www.epo.gov/oso/pdfs/rotf-finol.pdf.*

percent of the total) would be testing and/or monitoring costs.

Based on this analysis, we estimate that the total estimated capital costs for all large hard chromium electroplating sources to comply with this option (*i.e.*, a limit of 0.011 mg/dscm) and conduct the necessary testing and monitoring would be $1.8 million and the average capital costs per facility across all facilities would be $8,300. The estimated range of capital costs per plant would be from $0 to $180,000. The total annualized costs would be an estimated $2.2 million, which includes the costs for controls (WAFS and add-on controls) plus testing. The average annual cost per facility across all facilities would be about $10,000. The annualized costs per facility range from $0 to $55,000. We estimate that these requirements would reduce emissions of chromium (mainly hexavalent chromium) by 121 pounds per year (lbs/yr), and that the cost-effectiveness would be $18,100 per pound. The cost estimates for the WAFS accounts for the potential for slightly higher costs for non-PFOS WAFS compared to PFOS-based WAFS and includes a conservative assumption that the costs for non-PFOS WAFS will be 15 percent higher than the costs for PFOS-based WAFS. The use of non-PFOS WAFS to limit surface tension is described further in section IV.A.5 below. More information about the estimates of costs and reductions and how they were derived are provided in the technical support document "Procedures for Determining Control Costs and Cost Effectiveness for Chromium Electroplating Supplemental Proposal", which is available in the docket for this action.

Another option considered was to lower the current emissions limit by 50 percent, which would result in a limit of 0.0075 mg/dscm. Under this option, and using a similar assumption (as that used above) that facilities with emissions close to this level (*i.e.*, with emissions greater than 0.006) would make adjustments and reduce emissions to ensure compliance with the revised limit, we estimate that 76 of the existing large hard chromium facilities (about 33 percent of the total) would reduce emissions in order to ensure compliance with an emissions limit of 0.0075 mg/dscm. This would include the approximately 28 percent of sources not currently meeting this limit, as well as sources (approximately 5 percent) that are currently measuring close to this limit and that would likely need to make adjustments to ensure continuous compliance with a limit of 0.0075 mg/dscm. We assume that most of these 76 facilities would achieve these extra reductions with the addition of fume suppressants. However, we also assume that some facilities would need to install new add-on control devices or retrofit their existing controls to meet the limit.

Based on this analysis, we estimate that the total estimated capital costs for all large hard chromium electroplating sources to comply with this second option (*i.e.*, a limit of 0.0075 mg/dscm) and conduct the necessary testing and monitoring would be about $2.8 million, and the average capital costs per facility across all facilities would be about $12,000. The total annualized costs are estimated to be about $4.2 million, and the estimated average annual cost per facility across all facilities would be about $19,000. We estimate that these requirements would reduce emissions by 169 lbs/yr, and that the cost-effectiveness would be about $24,700 per pound. Moreover, the incremental cost-effectiveness (*i.e.*, the increased costs per pound that result from increasing the level of stringency from option 1 to option 2) is estimated to be about $41,800 per pound. This option would also result in more facilities needing to install or retrofit add-on controls and would have more significant impacts on small businesses compared to the first option discussed above.

We also considered the option of lowering the limit by 60 percent, which would result in a limit of 0.006 mg/dscm. The option of reducing the emissions limit to 0.006 mg/dscm was evaluated because that concentration is equivalent to the concentration that can be achieved when WAFS are used to control emissions and the surface tension in the affected chromium electroplating tank is maintained at levels consistent with the surface tension limits that are being proposed in this action (as described in section IV.A.5). However, the number of facilities affected, the cost-effectiveness, and incremental cost-effectiveness were significantly higher than the estimated costs and impacts for the two options presented above (as shown in Table 2), and would result in greater economic impacts to small businesses.

We made the decision to consider more stringent emissions limits than the limit in the current NESHAP primarily because the revised data set indicated that most facilities were operating well below the current emissions limit. This indicated that more stringent emissions limits could be implemented without significant economic burden to the industry.

After considering the three options described above for reducing the emissions limit and after weighing the costs and emissions reductions associated with each option, we are proposing to reduce the emissions limit for affected tanks located at existing large hard chromium electroplating facilities to 0.011 mg/dscm. We conclude this emissions limit would achieve significant reductions in emissions at a reasonable cost. This option results in reductions from about 18 percent of the facilities. We project that these facilities would generally be the higher emitting facilities since they would be the facilities with emissions concentrations at the upper end (above 0.009 mg/dscm) compared to other facilities; therefore, this lower limit will achieve significant reductions. We did not choose the other options for a number of reasons, including the following: those options would pose greater economic burden, would be less cost effective, would have significantly higher incremental cost-effectiveness, would have higher total annualized costs and higher average costs per facility, would impact substantially more facilities, and would result in greater impacts to a greater number of small businesses.

Nevertheless, as an alternative to meeting the proposed emissions limits, we are proposing to allow existing large hard chromium electroplating facilities to meet the surface tension limits that are also being proposed in this action. The proposed surface tension limits would be 40 dynes/cm, if measured using a stalagmometer, and 33 dynes/cm, if measured using a tensiometer. Section IV.A.5 of this preamble discusses the analyses performed and the basis for these proposed surface tension limits. As described in section IV.A.5 of this preamble, we conclude that maintaining surface tension at this level would reflect a level of emissions that is lower than the emissions limit (of 0.011 mg/dscm) proposed above.

b. Compliance Testing and Monitoring. To demonstrate compliance, we are proposing that each facility would need to provide a new or previous performance stack emissions test that is representative of current operations and current controls and is conducted at the exit of the control device to show they are in compliance with the emissions limit. Or, as an alternative, facilities could demonstrate compliance with the MACT standard by monitoring surface tension and demonstrate that they maintain the surface tension below the proposed limits of 40 dynes/cm, if measured with

a stalagmometer, and 33 dynes/cm, if measured with a tensiometer.

c. Estimated Costs and Impacts for Existing Large Hard Chromium Facilities for the Proposed Option. We estimate that 41 of the existing large hard chromium facilities (about 18 percent of the total) would reduce emissions in order to ensure compliance with a new emissions limit of 0.011 mg/dscm. This would include the approximately 11 percent not currently meeting this limit, as well as sources (approximately 6 percent) that are currently measuring close to this limit and that would likely need to make adjustments to ensure continuous compliance with the proposed 0.011 mg/dscm level. We assume that most of these 41 facilities would achieve these extra reductions with the addition of fume suppressants. However, we also assume that some facilities would need to install new add-on control devices or retrofit their existing controls to meet the limit. We estimate that 27 plants would be required only to conduct performance tests; and the remaining plants would not be required to test or add additional controls.

Based on this analysis, we estimate that the total estimated capital costs for all large hard chromium electroplating sources to comply with the revised limits and conduct the necessary testing and monitoring is estimated to be $1.8 million and the average capital costs per facility across all facilities are $8,300. The total annualized costs are estimated to be $2.2 million, and the average annual cost per facility across all facilities is estimated to $10,000. The range for annualized costs per facility range from $0 to $57,000. These costs include the costs for controls (WAFS and add-on controls) plus testing. We estimate these requirements will reduce chromium emissions (mainly hexavalent chromium) by 121 pounds per year, and that the cost-effectiveness would be $18,100 per pound. We conclude that these costs (*e.g.*, total capital and annualized costs, and the costs per plant) and the cost effectiveness are reasonable, particularly since hexavalent chromium is a known human carcinogen.

d. Emissions Limits for New Large Hard Chromium Sources. We also considered options for a more stringent emissions limit for new sources. In doing so, we recognized the need to re-define "new source" to help clarify which facilities would be subject to the new source standards being proposed in this action. For purposes of the revisions to the NESHAP being proposed, a new facility would be one that commences construction or reconstruction after February 8, 2012. All other sources are considered existing facilities for purposes of these proposed amendments.

In evaluating options for a more stringent emissions limit for new large hard chromium electroplating facilities, we considered the emissions concentrations that could be achieved using available add-on control devices (such as with a CMP, MPME or high efficiency scrubber) or a combination of add-on controls (such as a CMP plus a HEPA filter or an MPME plus a HEPA filter) and the emissions concentrations that could be achieved using WAFS. To analyze the level of emissions that can be achieved with add-on controls, we evaluated available data on the emissions concentrations that are achieved by existing hard chromium electroplating facilities that have various add-on controls or combinations of controls. Based on our analysis, we conclude that the best available control technology configurations, such as CMP plus a HEPA filter, a MPME plus a HEPA filter, or a high efficiency scrubber, can achieve emissions concentrations of approximately 0.003 mg/dscm or lower. We also considered the costs associated with each of these types of control configurations. We estimate that the capital cost to install a CMP plus a HEPA filter for a new large hard chromium source is about $306,400 and that the annualized costs would be $109,300/yr. We also estimate that the capital and annualized costs for the other comparable control technology configurations would be no greater than these. We conclude that these costs are reasonable for new sources that choose one of these combinations of add-on controls to minimize emissions.

Nevertheless, as discussed in section IV.A.5 of this preamble, maintaining affected tanks below the proposed surface tension limits, which would be a cost-effective compliance option for new large hard chromium sources, would limit chromium emissions concentrations to less than 0.006 mg/dscm. The combination of add-on controls described above (*e.g.*, CMP plus HEPA filter or an MPME plus HEPA filter or a high efficiency scrubber) can reliably achieve emissions of 0.003 mg/dscm or lower at a reasonable cost for those new sources that choose to use these add-on controls to comply with the NESHAP instead of WAFS. The available data indicate that all existing hard chromium electroplating sources that use these add-on controls (*e.g.*, CMP plus HEPA filter or an MPME plus HEPA filter) achieve emissions of 0.003 mg/dscm or lower, well below 0.006 mg/dscm. Moreover, based on the data that we have, 60 percent of all existing large hard chromium facilities already achieve emissions below 0.006 regardless of the type of controls they use. For example, many facilities that only have a CMP alone (without the HEPA filter) have emissions below 0.006 mg/dscm. Therefore, we conclude that some new facilities may be able to achieve emissions below 0.006 mg/dscm with only a CMP, which would be lower costs than those costs mentioned above for the combination of controls. Taking into account an allowance for variability in emission testing and control device performance for those sources that comply using add-on controls, and to provide new facilities the flexibility to use WAFS to minimize emissions to comply with the emissions limit as an alternative to add-on controls, we are proposing an emissions limit of 0.006 mg/dscm for new sources. That is, we are proposing to require affected tanks at new large hard chromium electroplating facilities to meet an emissions limit of 0.006 mg/dscm.

Today's action would also allow new large hard chromium electroplating sources the option of meeting the proposed surface tension limits (40 dynes/cm by stalagmometer and 33 dynes/cm by tensiometer) as an alternative to the proposed emissions limit of 0.006 mg/dscm.

2. Emissions Limits for Small Hard Chromium Electroplating

a. Emissions Limits for Small Hard Chromium Sources. As we did for large hard chromium electroplating, described above to evaluate possible options to reduce the emissions limits, we compiled and ranked the available data, which indicate that more than 80 percent of the currently operating small hard chromium electroplating sources have emissions concentrations below the current emissions limit for new small hard chromium electroplating sources (*i.e.*, 0.015 mg/dscm). We have such data for 73 tanks at 56 facilities located in States other than California. We estimate that there are a total of 450 small hard chromium plants in the U.S., with 36 of those plants located in California and 414 plants located in other States. The plants located in California have considerably lower emissions on average compared to plants in other States. We evaluated three possible options for a more stringent standard for these small hard chromium electroplating sources, considering the costs and emissions reductions that would be achieved under each of these options. Table 3 summarizes the emissions reductions,

costs, and cost effectiveness associated with these options.

TABLE 3—SUMMARY OF OPTIONS CONSIDERED FOR POTENTIAL REVISED EMISSIONS LIMITS FOR SMALL HARD CHROMIUM ELECTROPLATING FACILITIES

Option	Numer of plants	Emissions reductions, lbs/yr	Capital costs, $	Annualized costs, $/yr	Cost effectiveness, $/lb
Reduce emissions limit to 0.015 mg/dscm					
Existing Small Hard Chromium	85	41	$1,445,000	$652,000	$15,800
Reduce emissions limit to 0.010 mg/dscm					
Existing Small Hard Chromium	140	64	2,447,000	1,225,000	19,200
New* Small Hard Chromium	34	7	571,000	243,000	36,000
Reduce emissions limit to 0.006 mg/dscm					
Existing Small Hard Chromium	171	81	3,161,000	1,585,000	19,700
New* Small Hard Chromium	80	35	1,268,000	653,000	18,800

*The term "new" as used in this table refers to sources subject to the new source limit in the current NESHAP (*i.e.*, sources that were constructed or reconstructed after December 16, 1993).

The first option evaluated was to require existing small hard chromium electroplating plants to meet the emissions limit currently required for new small hard chromium electroplating plant (*i.e.*, 0.015 mg/dscm). As described above, the current NESHAP (promulgated in 1995), includes a limit of 0.03 for existing sources and a limit of 0.015 for new sources (those constructed or reconstructed after December 16, 1993). We decided that it was appropriate to evaluate this option since many small hard chromium plants (those constructed or reconstructed since December 16, 1993) are already subject to this limit and because the vast majority of currently operating small hard chromium plants are achieving emissions at or below this level.

We also considered a more stringent option of proposing a limit of 0.006 mg/dscm for the same reason described previously for large hard chromium electroplating. That is, an emissions limit of 0.006 mg/dscm would be equivalent to the concentration that can be achieved when WAFS are used to control emissions and the surface tension in the affected chromium electroplating tank is maintained by the revised limits that are being proposed in this action.

Finally, as a third option, we evaluated a possible emissions limit of 0.010 mg/dscm for small hard chromium electroplating plants to provide an intermediate option that is more stringent than the first option of 0.015 mg/dscm, but less stringent than the second option of 0.006 mg/dscm. These options are described in more detail in the following paragraphs.

As noted above, the first option we considered was to propose that all currently operating small hard chromium facilities meet the new source limit in the current NESHAP (*i.e.*, 0.015 mg/dscm). Under this option, we estimate that 55 plants (12 percent of the total small hard chromium plants nationwide) would need to reduce emissions to comply with this option because they have emissions at or above 0.015 mg/dscm. We also assume that an additional 30 plants (7 percent) that have emissions close to this level (*i.e.*, have emissions concentrations greater than 0.012 mg/dscm) would likely need to make adjustments and reduce emissions to ensure continuous compliance with a limit of 0.015 mg/dscm. Under this option we estimate that 85 small hard chromium facilities (about 19 percent of the total) would reduce emissions. We assume that most of these 85 facilities would achieve these extra reductions with the addition of fume suppressants. However, we also assume that some facilities would need to install new add-on control devices or retrofit their existing controls to meet the limit.

The total estimated capital costs for all small hard chromium electroplating sources to comply with this option and conduct the necessary testing and monitoring would be $1.45 million, and the average capital costs per facility across all facilities would be $5,300. The total annualized costs are estimated to be $650,000, and the average annual cost per facility across all facilities is $2,400. These costs include the costs for controls (WAFS and add-on controls) plus testing. The annualized costs per facility are estimated to range from $0 to $22,000 per year. We estimate that this option would reduce chromium emissions by 41.3 pounds per year, and that the cost-effectiveness would be $15,800 per pound. More information about the estimates of costs and reductions and how they were derived are provided in the technical document "Procedures for Determining Control Costs and Cost Effectiveness for Chromium Electroplating Supplemental Proposal", which is available in the docket for this action.

Another option evaluated was to lower the limit for existing and new sources to 0.01 mg/dscm. Under this option we estimate that 174 small hard chromium facilities (about 39 percent of the total) would need to reduce emissions. We assume that most of these 174 facilities would achieve these extra reductions with the addition of fume suppressants. However, we also assume that several facilities would need to install new add-on control devices or retrofit their existing controls to meet the limit.

The total estimated capital costs for all small hard chromium electroplating sources to comply with this option and conduct the necessary testing and monitoring would be $3.02 million and the average capital costs per facility across all facilities would be $17,400. The total annualized costs are estimated to be about $1.47 million, and the average annual cost per facility across all facilities would be about $8,400. We estimate that this option would reduce emissions by 71 pounds per year, and that the cost-effectiveness would be about $20,700 per pound. Moreover, the incremental cost-effectiveness (*i.e.*, the increased costs per pound that result

from increasing the level of stringency from option 1 to option 2) is estimated to be about $27,000 per pound. This option would also result in more facilities needing to install or retrofit add-on controls and would have more significant impacts on small businesses compared to option 1.

We also considered the more stringent option of lowering the limit to 0.006 mg/dscm, which would be consistent with the emissions that can be achieved using WAFS and maintaining the surface tension below the limit being proposed in this action. However, the number of facilities affected, the cost-effectiveness, and incremental cost-effectiveness were significantly higher than the estimated costs and impacts for the two options presented above (as indicated in Table 3), and would result in greater economic impacts to small businesses.

After considering the impacts of these three options, we are proposing to reduce the emissions limit for existing small hard chromium electroplating sources to 0.015 mg/dscm, which is equal to the MACT limit we established for new small hard chromium electroplating sources when we first promulgated the NESHAP (60 FR 4963, January 25, 1995).

As an alternative to meeting the proposed emissions limits, we are proposing to allow existing small hard chromium electroplating facilities to meet the surface tension limits that are also being proposed in this action. The proposed surface tension limits would be 40 dynes/cm, if measured using a stalagmometer, and 33 dynes/cm, if measured using a tensiometer. Section IV.A.5 of this preamble discusses the analyses performed and the basis for these proposed surface tension limits. As described in section IV.A.5 of this preamble, we conclude that maintaining surface tension at this level would reflect a level of emissions that is lower than the emissions limit (of 0.015 mg/dscm) proposed above.

b. Compliance Testing and Monitoring. To demonstrate compliance, we are proposing that each facility would need to provide a new or previous performance stack emissions test that is representative of current operations and current controls and is conducted at the exit of the control device to show they are in compliance with the emissions limit. Or, as an alternative, facilities can demonstrate compliance with the MACT standard by monitoring surface tension and demonstrate that they maintain the surface tension below the proposed limits of 40 dynes/cm, if measured with a stalagmometer, and 33 dynes/cm, if measured with a tensiometer.

c. Estimated Costs and Impacts for Small Hard Chromium Facilities.

We estimate that 85 small hard chromium facilities (about 19 percent of the total) would reduce emissions to ensure compliance with the proposed limit. We assume that most of these 85 facilities would achieve these extra reductions with the addition of fume suppressants. However, we also assume that some facilities would need to install new add-on control devices or retrofit their existing controls to meet the limit. We estimate that 26 plants would be required only to conduct performance tests; and the remaining plants would not be required to test or add additional controls.

The total estimated capital costs for all small hard chromium electroplating sources to comply with the proposed revised limits and conduct the necessary testing and monitoring is estimated to be $1.45 million and the average capital costs per facility are $5,300. The total annualized costs are estimated to be $650,000, and the average annual cost per facility is $2,400. We estimate that these requirements will reduce chromium emissions by 41.3 pounds per year, and that the cost-effectiveness would be $15,800 per pound. We conclude that these costs (*e.g.*, total capital and annualized costs, and the costs per plant) and the cost effectiveness are reasonable, particularly since hexavalent chromium is a known human carcinogen.

d. Emissions Limits for New Small Hard Chromium Sources.

For new small hard chromium facilities, we considered options for a more stringent emissions limit based on the same type of analysis described above for large hard chromium electroplating sources. As is the case for large hard chromium electroplating, we are also proposing to re-define new source as those sources, the construction or reconstruction of which commenced after February 8, 2012.

For the reasons described previously (in section IV.A.1.d) for large hard chromium electroplating facilities, we are proposing to require new small hard chromium electroplating facilities, to limit emissions from affected tanks to 0.006 mg/dscm. Those reasons include the findings that add-on controls (such as a CMP plus HEPA filter) or WAFS can achieve this level of emissions at new hard chromium sources for a reasonable cost. We estimate that installing a combination of CMP with HEPA filter on a new small hard chromium electroplating source would result in capital costs of $127,000 and annualized costs of $45,000 per year. Furthermore, we believe that sources could meet this level with other control configurations or with WAFS alone for lower costs. We conclude that any new source should be able to achieve this level of performance with typical add-on control devices or with use of WAFS.

Today's action would also allow new small hard chromium electroplating sources the option of meeting the proposed surface tension limits (40 dynes/cm by stalagmometer and 33 dynes/cm by tensiometer) as an alternative to the proposed emissions limit of 0.006 mg/dscm.

3. Decorative Chromium Electroplating

a. Emissions Limits for Existing and New Sources. As described above, the current emissions limit for decorative chromium electroplating is 0.010 mg/dscm. We reviewed the available data on existing sources in the decorative chromium electroplating source category to determine the typical level of emissions performance and range of performance among those sources to assess options for revising the current limit. We also reviewed the available data on surface tension levels and the relationship of surface tension to emissions concentrations since most decorative chromium electroplating tanks rely primarily or entirely on WAFS to limit emissions. WAFS are the most common method for limiting emissions from these facilities.

With regard to emissions concentration data, we have data from 20 tanks at 17 facilities. Based on these data, the emissions concentrations from these 20 tanks are all less than 0.007. The highest value is 0.0066 mg/dscm. Two of these tanks (about 11 percent) have emissions between 0.006 to 0.0066. All the other tanks in this data set (about 89 percent) have emissions concentrations below 0.006 mg/dscm. Some tanks have emissions much lower than 0.006 mg/dscm.

With regard to our analysis of surface tension and its relationship with emissions concentrations, as described in section IV.A.5 below (and in more details in the "Development of Revised Surface Tension Limits for Chromium Electroplating and Anodizing Tanks Controlled with Wetting Agent Fume Suppressants," which is available in the docket for this action), we conclude that maintaining surface tension to 40 dynes/cm (as measured by a stalagmometer) and 33 dynes/cm (as measured with a tensiometer) in decorative chromium electroplating baths would maintain emissions below 0.006 mg/dscm.

After reviewing these data and evaluating various regulatory options, we are proposing to lower the limit for existing decorative electroplating tanks to 0.007 mg/dscm, which would be a 30 percent reduction from the current limit of 0.01 mg/dscm. Our general approach to choosing this option was similar to that explained previously for hard chromium electroplating. On the one hand, the available data indicate that most decorative chromium electroplating sources have emissions well below the current emissions limit of 0.010 mg/dscm. As noted above, all sources in our data set have emissions concentrations below 0.007 mg/dscm. Thus, we concluded that a more stringent limit could achieve reductions in emissions, particularly in terms of allowable emissions, without imposing a significant burden on the industry. On the other hand, the large majority of decorative chromium electroplating tanks are controlled with WAFS, and the available surface tension data indicate that emissions from these source are in the range of 0.004 to 0.006 mg/dscm (as described further in section IV.A.5). We considered this concentration range as a lower bound to what could reasonably be required. Therefore, we decided to select an option between 0.006 and 0.01 mg/dscm for further evaluation. Subsequently, we chose to evaluate 0.007 mg/dscm for this thorough evaluation since this is the upper end of the emissions levels for sources in our data set.

Although all facilities in our data set that use an add-on control device have emissions below 0.007 mg/dscm, we realize that some sources (an estimated 8 facilities) currently have emissions relatively close to this limit and therefore would likely need to make adjustments and achieve reductions to ensure continuous compliance with the proposed 0.007 mg/dscm level. Based on the available emissions concentration data, we estimate that about 8 facilities may need to reduce emissions to ensure compliance with this limit. (See the technical support document "Procedures for Determining Control Costs and Cost Effectiveness for Chromium Electroplating Supplemental Proposal" which is available in the docket for more details). However, it is important to note that sources would have the choice to comply with the standard either by demonstrating emissions are less than 0.007 mg/dscm (with a stack test), or by maintaining surface tension below 40 dynes/cm (as measured by a stalagmometer) or 33 dynes/cm (as measured with the tensiometer), as described further in section IV.A.5 below. We believe that most of the decorative chromium facilities would choose this surface tension compliance approach.

Nevertheless, we estimate that by lowering the limit to 0.007 mg/dscm (and recognizing that plants would have the option to demonstrate compliance by meeting the surface tension limits), the total capital costs for all decorative chromium electroplating facilities to comply with this option and to conduct all the necessary testing and monitoring would be $183,000, and the average capital costs per facility would be $400. The total annualized costs are estimated to be $189,000, and the average annual cost per facility is $390. We estimate that this option would reduce emissions by 39 pounds per year, and that the cost-effectiveness would be $4,800 per pound.

We also considered other options, but we concluded that proposing a limit of 0.007 was the most appropriate option. Therefore, we are proposing an emissions limit of 0.007 mg/dscm for existing decorative chromium electroplating sources. We conclude that this lower proposed limit would likely require no costs for add-on controls for these sources since all facilities for which we have data are already performing below this level with their current controls and that all the other facilities (that may need to achieve reductions) will do so by adding fume suppressants rather than installing add-on controls or retrofitting their existing controls.

This limit of 0.007 mg/dscm would apply to any affected decorative chromium electroplating source that is controlled with an add-on emission control device and chooses to demonstrate compliance with a stack emissions test.

As an alternative to meeting the proposed emissions limit, we are proposing to allow existing decorative chromium electroplating facilities to meet the surface tension limits that are also being proposed in this action. The proposed surface tension limits would be 40 dynes/cm, if measured using a stalagmometer, and 33 dynes/cm, if measured using a tensiometer. Section IV.A.5 of this preamble discusses the analyses performed and the basis for these proposed surface tension limits. As described in section IV.A.5 of this preamble, we conclude that maintaining surface tension at this level would reflect a level of emissions that is lower than the emissions limit (of 0.007 mg/dscm) proposed above.

With regard to new sources, we are proposing to require new decorative chromium electroplating tanks meet an emissions limit of 0.006 mg/dscm, consistent with the proposed new source limit for hard chromium electroplating sources. As explained previously, the available data indicate that chromium electroplating plants that use WAFS to control emissions and maintain the surface tension below the proposed limits would meet an emissions concentration of 0.006 mg/dscm. Furthermore, the data used to develop these revised surface tension limits indicate that WAFS are equally effective in controlling emissions from hard chromium electroplating tanks and from decorative chromium electroplating tanks. In addition, the available data indicate that over 80 percent of existing decorative chromium electroplating plants with add-on controls already meet this proposed new source emissions limit. Therefore, new facilities should be able to achieve this level of emissions at relatively low costs by using WAFS or with the type of add-on control devices used by existing facilities in this source category. As an alternative, we are proposing that new sources can demonstrate compliance with the MACT standards by maintaining surface tension limits of 40 dynes/cm, if measured by stalagmometer, and 33 dynes/cm, if measured by tensiometer.

As is the case for hard chromium electroplating, today's action would re-define new sources to clarify which emissions limits would apply to a specific facility.

b. Compliance Testing and Monitoring.

To demonstrate compliance, we are proposing that each decorative chromium electroplating source that uses an add-on control device to control emissions from affected tanks and chooses to comply with the proposed emissions limit, rather than the surface tension limits, would need to provide a new or previous performance stack emissions test that is representative of current operations and current controls and is conducted at the exit of the control device to show they are in compliance with the emissions limit. Facilities that elect the alternative option to comply with the surface tension limits would be required to monitor surface tension, as currently required by the NESHAP.

c. Costs and Impacts for Decorative Chromium Electroplating.

The total estimated capital costs for all decorative chromium electroplating facilities to comply with these proposed revised standards (*i.e.*, lower surface tension limits or lower emissions limits) and to conduct all the necessary testing and monitoring is estimated to be

$183,000, and the average capital costs per facility are $400. The total annualized costs are estimated to be $189,000, and the average annual cost per facility across all facilities is $390. The range for annualized costs per facility are from $0 to $4,200. We estimate that these requirements will reduce emissions by 39 pounds per year, and that the cost-effectiveness would be $4,800 per pound.

4. Chromium Anodizing

a. Emissions Limits for Existing and New Chromium Anodizing Sources. As discussed in section III.B.1.d. of this preamble, although we did not have the data to perform a detailed analysis of options for chromium anodizing sources, there is a basis for concluding that the same emissions limits being proposed for decorative chromium electroplating would also be appropriate for chromium anodizing sources. In terms of relative magnitude of emissions, the types of emission controls commonly used, and the emissions limits in the current NESHAP, these two source categories are similar. With regard to emissions levels, based on the available data, the average emissions from chromium anodizing plants are about 20 percent lower than the average emissions from decorative electroplating plants, with an average of about 0.46 pounds per year per facility for anodizing plants and 0.57 pounds per year per plant for decorative chromium electroplating. With regard to controls, the majority of chromium anodizing and decorative chromium electroplating plants rely partly or entirely on WAFS to limit emissions. Moreover, the tank sizes are similar, with an average of about 1,020 gallons per tank for decorative chromium electroplating plants and 1,380 gallons per tank for chromium anodizing plants. Overall, we conclude that chromium anodizing plants should be able to limit emissions just as effectively and to the same level as the decorative plants, primarily using WAFS, for about the same costs. Consequently, we are proposing the same emissions limits for new and existing chromium anodizing sources as are being proposed for decorative chromium electroplating sources. That is, we are proposing that existing chromium anodizing sources would have to meet an emissions limit of 0.007 mg/dscm, and new sources would have to meet an emissions limit of 0.006 mg/dscm. Sources would also have the option of meeting the proposed surface tension limits as an alternative to meeting the proposed emissions limits. As is the case for hard chromium electroplating, today's action would redefine new sources to clarify which emissions limits would apply to a specific facility. Nevertheless, since we have very limited data on chromium anodizing plants, we specifically request comments on these proposed limits and we seek data and information on emissions from these chromium anodizing sources, including emissions test results, emissions concentration data, mass rate emissions (*e.g.*, lbs per year), flow rates, and other emissions release information.

b. Compliance Testing and Monitoring. To demonstrate compliance, we are proposing that each chromium anodizing facility that uses an add-on control device to control emissions from affected tanks and chooses to comply with the proposed emissions limit, rather than the surface tension limits, would need to provide a new or previous performance stack emissions test that is representative of current operations and current controls and is conducted at the exit of the control device to show they are in compliance with the emissions limit. Facilities that elect the alternative option to comply with the surface tension limits would be required to monitor surface tension, as currently required by the NESHAP.

c. Costs and Impacts for Chromic Acid Anodizing.

To meet the proposed lower emissions limits and/or the lower surface tension limits, we conservatively assume that about 50 percent of facilities will need to use additional WAFS, which would result in increased annualized costs. Since emissions are already quite low for these facilities, we assume that no facilities will need to install add-on controls to meet the lower limits. Therefore, the only capital costs will be costs for testing.

The total estimated capital costs for all chromic acid anodizing facilities to comply with the revised limits, which is completely for testing and monitoring, is estimated to be $245,000 and the average capital costs per facility are $1,700. The total annualized costs, which include costs for WAFS and annualized costs for testing and monitoring, are estimated to be $54,000 and the average annual cost per facility across all facilities is $370. The range for annualized costs per facility are from $0 to $2,600. We estimate that these requirements will reduce emissions by 6 pounds per year, and that the cost-effectiveness would be $9,100 per pound. More information about the estimates of costs and reductions and how they were derived are provided in the technical support document "Procedures for Determining Control Costs and Cost Effectiveness for Chromium Electroplating Supplemental Proposal," which is available in the docket for this action.

5. Surface Tension Limits

As described in section III.A.2 of this preamble, the available data on surface tension and emission concentration were evaluated in terms of upper tolerance limits (UTLs) to help us better understand the relationship between surface tension and emissions. As a first step, we categorized the data according to the type of instrument used (stalagmometer or tensiometer). We discarded any data for which we could not identify the measurement instrument.

We analyzed the data for the purpose of developing tolerance limits that could be used to establish emissions concentrations for specified surface tension values. Statistical tolerance limits are limits within which a stated proportion of the population is expected to lie. The UTL represents the value below which it can be expected that the specified percentage of the measurements would fall for the specified level of confidence in repeated sampling. For example, the 95 percent UTL with 99 percent confidence level is the value for which we can conclude with 99 percent certainty or confidence that at least 95 percent of the data points lie below. We used this UTL approach in our analysis at these percent values (*i.e.*, the 95 percent UTL with 99 percent confidence level).

To determine the UTL for various surface tension limits, we divided the surface tension data into intervals that had enough data points to calculate the mean and standard deviation. Separate data sets and intervals were determined for surface tension measurements using stalagmometers and for measurements using tensiometers. We then applied a statistical procedure to develop UTLs for each surface tension interval. We evaluated the results to determine appropriate intervals (*i.e.*, surface tension limits) that would be achievable from a process operating perspective and would achieve significant reductions in chromium emissions. We used these surface tension limits as the basis for our proposed decisions regarding surface tension. These proposed decisions are described previously in sections IV.A.1 through IV.A.4. The results of the UTL analysis indicate that maintaining the surface tension below 40 dynes/cm, as measured using a stalagmometer, would limit emissions to no more than 0.0055 mg/dscm; and maintaining the surface

tension below 32.5 dynes/cm, as measured using a tensiometer, would limit emissions to no more than 0.0047 mg/dscm. Recognizing that these instruments measure surface tension in integer increments, we rounded the tensiometer limit to 33 dynes/cm and concluded that maintaining these two surface tension limits (40 dynes/cm by stalagmometer and 33 dynes/cm by tensiometer) in chromium electroplating and anodizing baths would maintain emissions below 0.006 mg/dscm. Additional details on the analysis of the surface tension data can be found in the technical memorandum, "Development of Revised Surface Tension Limits for Chromium Electroplating and Anodizing Tanks Controlled with Wetting Agent Fume Suppressants," which is available in the docket for this action.

Based on available data, many facilities that currently use WAFS already achieve surface tensions well below these levels (*i.e.*, 40 dynes/cm and 33 dynes/cm), and based on available information, we conclude that other facilities can easily achieve these levels with a relatively small increase in the use of fume suppressants. Therefore, as an alternative to meeting the proposed emissions limits, we are proposing to allow new and existing sources in all three source categories (hard chromium electroplating, decorative chromium electroplating, and chromium anodizing) that use WAFS to comply with the NESHAP to meet these proposed lower surface tension limits (40 dynes/cm as measured with a stalagmometer and 33 dynes/cm as measured with a tensiometer).

As mentioned above, in the October 21, 2010 **Federal Register** notice (75 FR 65068), we proposed phasing out the use of wetting agent fume suppressants (WAFS) that contain perfluorooctyl sulfonates (PFOS). Based on available information, we continue to believe that non-PFOS WAFS are available that can effectively limit surface tension for about the same costs as PFOS-based WAFS, and that these non-PFOS WAFS can achieve surface tension levels below the proposed surface tension limits (described above).[10,11] However, to be conservative, we have assumed that the costs for non-PFOS WAFS will be 15 percent higher than the PFOS based WAFS and these additional costs have been included in the costs presented in today's notice. More information about the cost estimates for WAFS and how they were derived are provided in the technical support document "Procedures for Determining Control Costs and Cost Effectiveness for Chromium Electroplating Supplemental Proposal," which is available in the docket for this action.

We are not re-opening the comment period on the proposed phase out of the use of PFOS-based WAFS. However, we are soliciting comment and data on whether the proposed surface tension limits can be met through the use of non-PFOS WAFS. We seek data and information on the type of WAFS used, what surface tensions have been achieved, what hexavalent chromium emissions reductions have been achieved, fume suppressant costs, and detailed information related to the feasibility of using different types of WAFS.

B. What are the results of the risk assessment?

1. Inhalation Risk Assessment Results

Table 4 provides an overall summary of the inhalation risk assessment results for the source category.

TABLE 4—CHROMIUM ELECTROPLATING AND ANODIZING INHALATION RISK ASSESSMENT RESULTS

Source category	Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Population at risk ≥ 1-in-1 million [3]	Annual cancer incidence (cases per year) [3]	Maximum chronic non-cancer TOSHI [4]		Maximum off-site acute non-cancer HQ
		Actual emissions level	Allowable emissions level			Actual emissions level	Allowable emissions level	
Hard Chromium Electro-plating	699	20	50	130,000	0.05	0.02	0.04	[5] NA
Decorative Chromium Electro-plating	577	10	70	43,000	0.02	0.008	0.06	[5] NA
Chromic acid Anodizing	179	5	60	5,000	0.003	0.004	0.05	[5] NA

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk.
[3] Based on actual emissions.
[4] Maximum TOSHI. The target organ with the highest TOSHI for these source categories is the respiratory system.
[5] NA = Not applicable. There are no HAP with acute dose-response benchmark values, so no acute HQ were calculated for these source categories.

As shown in Table 4, the results of the inhalation risk assessment for the hard chromium electroplating source category indicate the maximum lifetime individual cancer risk could be up to 20-in-1 million based on actual emission levels of hexavalent chromium, and the maximum chronic noncancer TOSHI value could be up to 0.02. The total estimated national cancer incidence from these facilities, based on actual emission levels, is 0.05 excess cancer cases per year, or one case in every 20 years. In addition, we note that approximately 1,100 people are estimated to have cancer risks greater than 10 in one million, and approximately 130,000 people are estimated to have risks greater than 1-in-1 million based on estimates of actual emissions. Based on allowable emission levels, the maximum lifetime individual cancer risk could be up to 50-in-1 million, and the maximum chronic noncancer TOSHI value could be up to 0.04. Hexavalent chromium, which is a known human carcinogen, is the only HAP emitted by these sources and the HAP driving all these risks.

The results of the inhalation risk assessment for the decorative chromium electroplating source category indicate the maximum lifetime individual cancer risk could be up to 10-in-1 million based on actual emission levels, and the maximum chronic noncancer TOSHI value could be up to 0.008. The total estimated national cancer incidence from these facilities, based on actual emission levels, is 0.02 excess cancer cases per year, or one case in every 50 years. In addition, we note that approximately 100 people are estimated to have cancer risks greater than 10 in

[10] Barlowe, G. and Patton, N., 2011. "Non-PFOS, Permanent Mist Suppressants for Hard Chromium Plating, Decorative Chromium Plating and Chromic Etch Applications". March 1, 2011.

[11] Danish, EPA. 2011. Substitution of PFOS for use in non-decorative hard chrome plating. Pia Brunn Poulsen, Lars K. Gram and Allan Astrup Jensen. Danish Environmental Protection Agency. Environmental Project No. 1371 2011.

one million, and approximately 43,000 people are estimated to have risks greater than 1-in-1 million based on estimates of actual emissions. Based on allowable emission levels, the maximum lifetime individual cancer risk could be up to 70-in-1 million, and the maximum chronic noncancer TOSHI value could be up to 0.06.

The results of the inhalation risk assessment for the chromic acid anodizing source category indicate the maximum lifetime individual cancer risk could be up to 5-in-1 million based on actual emission levels, and the maximum chronic noncancer TOSHI value could be up to 0.004. The total estimated national cancer incidence from these facilities, based on actual emission levels, is 0.003 excess cancer cases per year, or one case in every 333 years. In addition, we note that no people are estimated to have cancer risks greater than 10-in-1 million, and approximately 5,000 people are estimated to have risks greater than 1-in-1 million. Based on allowable emission levels, the maximum lifetime individual cancer risk could be up to 60-in-1 million, and the maximum chronic noncancer TOSHI value could be up to 0.05.

The cancer risk estimates for all of the chromium electroplating source categories, especially those based on actual emissions, are considerably different compared to the results that were presented in the initial RTR proposal on October 21, 2010, (75 FR 65071). The risks due to the estimates of actual emissions presented above are considerably lower than those presented in the October 21, 2010 proposal FR Notice for hard chromium and decorative chromium plants. However, the risks due to actual emissions for chrome anodizing are about the same as the October 2010 proposal. The revised estimate of risks based on allowable emissions presented above are lower for hard chromium, about the same for decorative, and considerably higher for anodizing plants compared to the October 2010 proposal. The main reason for the difference is that we have significantly improved data on emissions and facility characteristics for this supplemental proposal, and we used a different methodology to estimate emissions for facilities for which we had incomplete data. This improved data set is described further in section II.E of this preamble, and the methodology is described in section III.B.

For all three source categories, there were no reported emissions of PB–HAP, and chromium emissions are not known to have any associated adverse environmental impacts; therefore, we conclude there is low potential for human health multipathway risks or adverse environmental impacts. Also, because there are no HAP with acute dose-response benchmark values, no acute HQ were calculated for these source categories, and we believe that the potential for acute effects is low.

2. Facility-Wide Risk Assessment Results

Table 5 displays the results of the facility-wide risk assessment. This assessment was conducted based on actual emission levels. For detailed facility-specific results, see Appendix 5 of the "Residual Risk Assessment for the Chromic Acid Anodizing, Decorative Chromium Electroplating, and Hard Chromium Electroplating Source Categories" which is available in the docket for this rulemaking.

TABLE 5—CHROMIUM ELECTROPLATING AND ANODIZING FACILITY–WIDE RISK ASSESSMENT RESULTS

Source category	Hard chromium electroplating	Decorative chromium electroplating	Chromium anodizing
Number of facilities analyzed	699	577	179
Cancer Risk:			
Estimated maximum facility-wide individual cancer risk (in 1 million)	70	80	10
Number of facilities with estimated facility-wide individual cancer risk of 100-in-1 million or more	0	0	0
Number of facilities at which the source category contributes 50 percent or more to the facility-wide individual cancer risks of 100-in-1 million or more	0	0	0
Number of facilities at which the source category contributes 50 percent or more to the facility-wide individual cancer risk of 1-in-1 million or more	195	98	31
Chronic Noncancer Risk:			
Maximum facility-wide chronic noncancer TOSHI	2	7	0.1
Number of facilities with facility-wide maximum noncancer TOSHI greater than 1	1	2	0
Number of facilities at which the source category contributes 50 percent or more to the facility-wide maximum noncancer TOSHI of 1 or more	0	0	0

The facility-wide MIR from all HAP emissions at a facility that contains sources subject to the hard chromium electroplating MACT standards is estimated to be 70-in-1 million, based on actual emissions. Of the 699 facilities included in this analysis, none have a facility-wide MIR of 100-in-1 million or greater. There are 206 facilities with facility-wide MIR of 1-in-1 million or greater, of which 195 have hard chromium electroplating operations that contribute greater than 50 percent to the facility-wide risks. The facility-wide maximum individual chronic noncancer TOSHI value is estimated to be 2, based on actual emissions, and there is 1 facility with a facility-wide maximum individual chronic noncancer TOSHI value greater than 1. Hard chromium electroplating operations do not contribute greater than 50 percent to the facility-wide maximum chronic noncancer TOSHI value at any facility.

The facility-wide MIR from all HAP emissions at a facility that contains sources subject to the decorative chromium electroplating MACT standards is estimated to be 80-in-1 million, based on actual emissions. Of the 577 facilities included in this analysis, none have a facility-wide MIR of 100-in-1 million or greater. There are 121 facilities with a facility-wide MIR of 1-in-1 million or greater, of which 98 have decorative chromium

electroplating operations that contribute greater than 50 percent to the facility-wide risks. The facility-wide maximum individual chronic noncancer TOSHI value is estimated to be 7, based on actual emissions, and there are 2 facilities with facility-wide maximum individual chronic noncancer TOSHI values greater than one. Decorative chromium electroplating operations do not contribute greater than 50 percent to the facility-wide maximum chronic noncancer TOSHI value at any facility.

The facility-wide MIR from all HAP emissions at a facility that contains sources subject to the chromium anodizing MACT standards is estimated to be 10-in-1 million, based on actual emissions. Of the 179 facilities included in this analysis, none have a facility-wide MIR of 100-in-1 million or greater. There are 35 facilities with a facility-wide MIR of 1-in-1 million or greater, of which 31 have chromium anodizing operations that contribute greater than 50 percent to the facility-wide risks. The facility-wide maximum individual chronic noncancer TOSHI value is estimated to be 0.1.

3. Demographic Analysis Results

To examine the potential for any environmental justice (EJ) issues that might be associated with these source categories, we performed demographic analyses of the at-risk populations (*i.e.*, the population with estimated lifetime cancer risks greater than or equal to 1-in-1 million due to emissions from chromium electroplaters) for two of the three chromium electroplating categories. The results of the demographic analyses are summarized in Table 6. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 6—HARD AND DECORATIVE CHROMIUM ELECTROPLATING DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Hard chromium electroplating	Decorative chromium electroplating
		Population with cancer risk at or above 1-in-1 Million	
Total Population	312,900,000	131,000	43,000
Race by Percent			
White	72	59	48
All Other Races	28	41	52
Race by Percent			
White	72	59	48
African American	13	21	21
Native American	1.1	0.8	0.8
Other and Multiracial	14	20	30
Ethnicity by Percent			
Hispanic	17	34	26
Non-Hispanic	83	66	74
Income by Percent			
Below Poverty Level	14	21	24
Above Poverty Level	86	79	76
Education by Percent			
Over 25 and without High School Diploma	10	27	24
Over 25 and with a High School Diploma	90	73	76

For hard chromium electroplating, the results indicate that there are approximately 131,000 people exposed to a cancer risk at or above 1-in-1 million due to emissions from the source category. For several demographic groups, the percentage of such groups in the at-risk population are higher than their respective nationwide percentages, including the African American, Other and Multiracial, Hispanic, Below the Poverty Level, and Over 25 without a High School Diploma demographic groups. These results indicate that these demographic groups carry the potential to be disproportionately exposed to emissions and risks from this source category. These groups therefore stand to benefit the most from the emission reductions achieved by this proposed rulemaking.

For decorative chromium electroplating, the results indicate that there are approximately 43,000 people exposed to a cancer risk at or above 1-in-1 million due to emissions from the source category. The percentages of the at-risk population in several demographic groups are higher than their respective nationwide percentages, including the African American, Other and Multiracial, Hispanic, Below the Poverty Level, and the Over 25 without a High School Diploma demographic groups. These results indicate that these demographic groups carry the potential to be disproportionately exposed to emissions and risks from this source category. These groups therefore stand to benefit the most from the emission reductions achieved by this proposed rulemaking.

C. What are our proposed decisions regarding risk acceptability and ample margin of safety?

1. Risk Acceptability

As noted in the preamble of the October 2010 proposal (75 FR 65068), we weigh all health risk factors in our risk acceptability determination, including the MIR, the numbers of persons in various cancer and noncancer risk ranges, cancer incidence, the maximum noncancer HI, the maximum acute noncancer hazard, the extent of noncancer risks, the potential for adverse environmental effects, and risk estimation uncertainties (54 FR 38044, September 14, 1989).

For each of the three source categories, the risk analysis we performed indicates that the cancer risk to the individual most exposed due to actual emissions is well below 100-in-1 million (an MIR of 100-in-1 million is generally considered the upper limit of acceptable risk), and that the cancer incidence is less than 0.05 cases per year (about 1 case in every 20 years). These risks are due to hexavalent chromium emissions. Hexavalent chromium is classified as a known human carcinogen by U.S. EPA. While the potential cancer risks due to allowable emissions from each of the three chromium electroplating categories are higher, they are also less than 100-in-1 million (with the highest estimated MIR of 70-in-1 million for the decorative chromium electroplating category based on allowable emissions). Specifically, for hard chromium electroplating, the MIR due to actual emissions is estimated to be 20-in-1 million, and the cancer incidence is estimated to be 0.05 cases per year. The MIR due to allowable emissions from hard chromium electroplating facilities is estimated to be 50-in-1 million, and the cancer incidence is estimated to be 0.2. For decorative chromium electroplating, the MIR due to actual emissions is estimated to be 10-in-1 million, and the cancer incidence is estimated to be 0.02 cases per year. The MIR due to allowable emissions from decorative chromium facilities is estimated to be 70-in-1 million, and the cancer incidence is estimated to be 0.08. For chromium anodizing, the MIR due to actual emissions is estimated to be 5-in-1 million, and the cancer incidence is estimated to be 0.003 cases per year. The MIR due to allowable emissions from chromium anodizing facilities is estimated to be 60-in-1 million, and the cancer incidence is estimated to be 0.08.

Our analysis also indicates that chronic noncancer health risks, potential acute impacts of concern, multipathway health risks and environmental risks are all negligible due to both actual and allowable emissions for all three source categories.

Although the cancer risks are due to emissions of a known human carcinogen (hexavalent chromium), since the cancer MIRs due to actual emissions are well below 100-in-1 million, and because a number of the other risk metrics do not indicate high risk concerns, we are proposing to determine that the risks due to HAP emissions from each of the three source categories are acceptable.

We note that the results of our demographic analyses (which are presented above) for hard and decorative chromium electroplating indicate that certain minority groups and low-income populations may be disproportionately exposed to emissions from these categories and to any risks that may result due to these emissions because the communities most proximate to facilities within these categories have a higher proportion of these groups than the national demographic profile. We note that we did not identify any vulnerability or susceptibility to risks particular to minority and low income populations from pollutants emitted from this source category. The Agency has determined that the existing NESHAP for these source categories provides an acceptable level of risk for all proximate populations, including minority and low-income populations.

2. Ample Margin of Safety Analysis

We next considered whether the existing MACT standard provides an ample margin of safety (AMOS). Under the ample margin of safety analysis, we evaluate the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied in each of the three source categories to further reduce the risks (or potential risks) due to emissions of HAP identified in our risk assessment, along with all of the health risks and other health information considered in the risk acceptability determination described above.

Based on the fact that we have determined the risks due to actual and allowable emissions associated with each of the three categories of sources subject to the Chromium Electroplating NESHAP to be acceptable, and after evaluating the costs and feasibility of possible options to reduce emissions in our technology review, we are proposing that the same emission and surface tension limits that we are proposing under section 112(d)(6) of the Clean Air Act, which are discussed previously in section IV.A of this preamble, will reduce health risks and provide an ample margin of safety to protect public health. As described below, these proposed actions will reduce the modeled estimated maximum individual cancer risks and the modeled population cancer risks for the three source categories. Specifically, under Section 112(f) of the Clean Air Act, we are proposing the following amendments to the NESHAP:

- Existing large hard chromium electroplating facilities would be required to meet an emissions limit of 0.011 mg/dscm or a surface tension limit of 40 dynes/cm, if measured by stalagmometer, or 33 dynes/cm, if measured by tensiometer;
- New large hard chromium electroplating facilities would be required to meet an emissions limit of 0.006 mg/dscm or a surface tension limit of 40 dynes/cm, if measured by stalagmometer, or 33 dynes/cm, if measured by tensiometer;
- Existing small hard chromium electroplating facilities would be required to meet an emissions limit of 0.015 mg/dscm or a surface tension limit of 40 dynes/cm, if measured by stalagmometer, or 33 dynes/cm, if measured by tensiometer;
- New small hard chromium electroplating facilities would be required to meet an emissions limit of 0.006 mg/dscm or a surface tension limit of 40 dynes/cm, if measured by stalagmometer, or 33 dynes/cm, if measured by tensiometer;
- Existing decorative chromium electroplating and chromium anodizing facilities would be required to meet an emissions limit of 0.007 mg/dscm or a surface tension limit of 40 dynes/cm, if measured by stalagmometer, or 33 dynes/cm, if measured by tensiometer;
- New decorative chromium electroplating and chromium anodizing facilities would be required to meet an emissions limit of 0.006 mg/dscm or a surface tension limit of 40 dynes/cm, if measured by stalagmometer, or 33 dynes/cm, if measured by tensiometer.

These proposed amendments to the NESHAP would reduce the cancer risks due to emissions of hexavalent chromium from this industry for all populations, including minority and low-income populations. Specifically, we estimate that the MIR based on actual emissions for each of these categories would be reduced by 25 to 50 percent, and the MIR based on allowable emissions would also be reduced by 25 to 50 percent. Cancer incidence and the number of people

exposed to risks greater than 1-in-1 million would also be reduced significantly, by about 25 to 50 percent each.

As described above, we estimate that the total estimated capital costs for all existing large hard chromium electroplating sources to comply with the proposed revised limits and conduct the necessary testing and monitoring would be $1.8 million. The total annualized costs are estimated to be $2.2 million. We estimate that these proposed requirements would reduce chromium emissions by 121 pounds per year, and that the cost-effectiveness would be $18,100 per pound.

The total estimated capital costs for all existing small hard chromium electroplating sources to comply with the proposed revised limits and conduct the necessary testing and monitoring is estimated to be $1.45 million. The total annualized costs are estimated to be $652,000. We estimate that these proposed requirements would reduce chromium emissions by 41 pounds per year, and that the cost-effectiveness would be $15,800 per pound.

The total estimated capital costs for all existing decorative chromium electroplating facilities to comply with these proposed revised standards (*i.e.*, lower surface tension limits or lower emissions limits) and to conduct all the necessary testing and monitoring is estimated to be $183,000. The total annualized costs are estimated to be $189,000. We estimate that these proposed requirements would reduce emissions by 39 pounds per year, and that the cost-effectiveness would be $4,800 per pound.

The total estimated capital costs for all existing chromic acid anodizing facilities to comply with the proposed revised limits and conduct the necessary testing and monitoring is estimated to be $245,000. The total annualized costs are estimated to be $54,000. We estimate that these proposed requirements would reduce emissions by 6 pounds per year, and that the cost-effectiveness would be $9,100 per pound.

We conclude that the costs for all four categories or subcategories described above are reasonable given the risk reductions that will be achieved.

Based on all the above information, we propose that the NESHAP as revised with these proposed requirements will provide an ample margin of safety to protect public health by lowering emission levels and reducing cancer risk for all populations, including minority and low-income populations.

D. Compliance Dates

We are proposing to require existing facilities to comply with the proposed revised emissions limits or revised surface tension requirements no later than 2 years after the date of publication of the final rule. We believe this much time is needed for facilities to determine if they meet the proposed emissions limits, which would likely require conducting an emissions test. Scheduling a compliance test, conducting the test, and receiving the results, could take as much as 4 to 6 months. At that time, affected facilities that do not meet the proposed emissions limit would have to perform an engineering analysis to determine the control options, decide on what additional controls are needed, send out a tender notice, evaluate the bids received, and contract the installation and testing of the new equipment. Since most chromium electroplating facilities do not have in-house engineering expertise, they would likely have to hire consultants to perform all of the above work, and that would add to the time required.

We are proposing that all new facilities (newly constructed or reconstructed) must comply with the proposed revised emissions limits or surface tension requirements upon startup. We are proposing to require compliance with the electronic reporting requirements, which are discussed in section VII below, upon promulgation of the final rule.

V. What action are we proposing for the steel pickling source category?

A. Elimination of an Alternative Compliance Option

As a result of the review of the NESHAP, we are proposing the elimination of language in the NESHAP that allows HCl regeneration facilities to establish an alternative chlorine concentration standard for existing acid regeneration plants. The NESHAP currently allows the owner or operator to request approval for a source-specific standard based on the maximum design temperature and minimum excess air that allows production of iron oxide of acceptable quality if the source is unable to meet the otherwise applicable emissions limit for chlorine (Cl_2) of 6 parts per million by volume (ppmv) (40 CFR subpart CCC). Upon review of this provision, we believe that it does not meet the requirements in section 112(d)(2) and (3) of the CAA. MACT standards for existing sources cannot be less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). This is referred to as the "MACT floor." The promulgated standard in 40 CFR part 63, § 63.1157(b)(2), subpart CCC, was established in compliance with EPA's obligation to promulgate a standard representing the MACT floor. We do not have authority to allow a source to seek an alternative standard if such a source is unable to meet a standard which reflects the MACT floor level of control. Therefore, we are proposing to amend the NESHAP by removing the language in § 63.1157(b)(2) that currently allows a source-specific standard for sources that demonstrate they are unable to meet the applicable standard and removing the methods for establishing a source-specific standard under § 63.1161(c)(2) of the NESHAP. This action is being proposed under section 112(d)(2) and (3) of the CAA to ensure that the NESHAP is consistent with requirements of that section.

In addition to fulfilling the statutory requirements of Sections 112(d)(2) and (3), we note that this proposed action also will reduce the emissions of chlorine and HCl from this source category, resulting in a reduction of the Hazard Index (HI) from 2 due to HCl (that was presented in the October 21, 2010 proposal) to an HI of less than one. The one facility that posed the HI of 2 (in the October 21, 2010 proposal) will need to improve controls and reduce emissions by more than a factor of 2 to comply with this proposed action.

B. Compliance Dates

We are proposing that the amendments to § 63.1157(b)(2) and § 63.1161(c)(2) of the NESHAP would be effective upon promulgation of the final rule.

VI. What other actions are we proposing?

A. Electronic Reporting

EPA must have performance test data to conduct effective reviews of CAA sections 112 and 129 standards, as well as for many other purposes including compliance determinations, emission factor development, and annual emission rate determinations. In conducting these required reviews, EPA has found it ineffective and time consuming, not only for us, but also for regulatory agencies and source owners and operators, to locate, collect, and submit performance test data because of varied locations for data storage and varied data storage methods. In recent years, though, stack testing firms have

typically collected performance test data in electronic format, making it possible to move to an electronic data submittal system that would increase the ease and efficiency of data submittal and improve data accessibility.

Through this proposal, EPA is presenting a step to increase the ease and efficiency of data submittal and improve data accessibility. Specifically, EPA is proposing that owners and operators of facilities in the Hard and Decorative Chromium Electroplating and Chromium Anodizing source categories and the Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants source categories submit electronic copies of required performance test reports to EPA's WebFIRE database. The WebFIRE database was constructed to store performance test data for use in developing emission factors. A description of the WebFIRE database is available at *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main.*

As proposed above, data entry would be through an electronic emissions test report structure called the Electronic Reporting Tool (ERT). The ERT would generate an electronic report which would be submitted using the Compliance and Emissions Data Reporting Interface (CEDRI). The submitted report would be transmitted through EPA's Central Data Exchange (CDX) network for storage in the WebFIRE database making submittal of data very straightforward and easy. A description of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*www.epa.gov/cdx*).

The proposal to submit performance test data electronically to EPA would apply only to those performance tests conducted using test methods that will be supported by the ERT. The ERT contains a specific electronic data entry form for most of the commonly used EPA reference methods. A listing of the pollutants and test methods supported by the ERT is available at *http://www.epa.gov/ttn/chief/ert/index.html.* We believe that industry would benefit from this proposed approach to electronic data submittal. Having these data, EPA would be able to develop improved emission factors, make fewer information requests, and promulgate better regulations.

One major advantage of the proposed submittal of performance test data through the ERT is a standardized method to compile and store much of the documentation required to be reported by this rule. Another advantage is that the ERT clearly states what testing information would be required. Another important proposed benefit of submitting these data to EPA at the time the source test is conducted is that it should substantially reduce the effort involved in data collection activities in the future. When EPA has performance test data in hand, there will likely be fewer or less substantial data collection requests in conjunction with prospective required residual risk assessments or technology reviews. This would result in a reduced burden on both affected facilities (in terms of reduced manpower to respond to data collection requests) and EPA (in terms of preparing and distributing data collection requests and assessing the results).

State, local, and tribal agencies could also benefit from more streamlined and accurate review of electronic data submitted to them. The ERT would allow for an electronic review process rather than a manual data assessment making review and evaluation of the source provided data and calculations easier and more efficient. Finally, another benefit of the proposed data submittal to WebFIRE electronically is that these data would greatly improve the overall quality of existing and new emissions factors by supplementing the pool of emissions test data for establishing emissions factors and by ensuring that the factors are more representative of current industry operational procedures. A common complaint heard from industry and regulators is that emission factors are outdated or not representative of a particular source category. With timely receipt and incorporation of data from most performance tests, EPA would be able to ensure that emission factors, when updated, represent the most current range of operational practices. In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data would save industry, state, local, tribal agencies, and EPA significant time, money, and effort while also improving the quality of emission inventories and, as a result, air quality regulations.

VII. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

1. Chromium Electroplating and Chromium Anodizing

For the proposed amendments to the Chromium Electroplating NESHAP, the affected sources are each hard chromium electroplating tank, each decorative chromium electroplating tank, and each chromium anodizing tank located at a facility that performs hard chromium electroplating, decorative chromium electroplating, or chromium anodizing.

2. Steel Pickling

For the proposed amendments to the Steel Pickling NESHAP, the affected sources are hydrochloric acid regeneration plants that are major sources of HAP.

B. What are the emission reductions?

1. Chromium Electroplating and Chromium Anodizing

Overall, the proposed amendments to the Chromium Electroplating NESHAP would reduce nationwide emissions of chromium compounds by an estimated 208 pounds per year (lbs/yr) from the current levels of 1,140 lbs/yr down to 930 lbs/yr. For large hard chromium electroplating, the proposed amendments would reduce chromium compound emissions by about 121 lbs/yr from 561 lbs/yr down to 440 pounds. For small hard chromium electroplating, the proposed amendments would reduce chromium compound emissions by an estimated 41 lbs/yr from 240 lbs/yr to 199 lbs/yr. For decorative chromium electroplating, the proposed amendments would reduce chromium compound emissions by an estimated 40 lbs/yr from 280 lbs/yr down to 240 lbs/yr. For chromium anodizing, the proposed amendments would reduce chromium compound emissions by about 6 lbs/yr from 66 lbs/yr down to 60 lbs/yr. The proposed amendments would have negligible impacts on secondary emissions because the additional control equipment that would be required would not significantly impact energy use by the affected facilities.

2. Steel Pickling

We estimate that the proposed amendment to remove the alternative compliance provision for hydrochloric acid regeneration facilities would reduce emissions of chlorine by 15 tpy.

C. What are the cost impacts?

1. Chromium Electroplating and Chromium Anodizing

We estimate that these proposed amendments would achieve 208 pounds reductions in hexavalent chromium emissions, and that the total capital and total annualized cost for the proposed amendments would be $3.7 million and $3.1 million/yr, respectively. The overall cost effectiveness would be $14,900 per pound of hexavalent

chromium emissions reductions. A summary of the estimated costs and reductions of hexavalent chromium emissions are shown in Table 7.

TABLE 7—SUMMARY OF THE ESTIMATED COSTS, REDUCTIONS, AND COST EFFECTIVENESS FOR PROPOSED REQUIREMENTS FOR CHROMIUM ELECTROPLATING AND ANODIZING SOURCE CATEGORIES

Source category or subcategory	Capital costs (controls + WAFS + all testing)	Annualized costs (controls + WAFS + all testing), $/yr	Emissions reductions (lbs/yr)	Cost effectiveness ($/lb)
Large Hard Chromium Electroplating	$1,821,000	$2,195,000	121	$18,100
Small Hard Chromium Electroplating	1,445,000	653,000	41	15,800
Decorative Chromium Electroplating	183,000	189,000	39	4,800
Chromic Acid Anodizing	245,000	54,000	6	9,100
Total	3,694,000	3,090,000	208	14,900

2. Steel Pickling

For HCl acid regeneration plants, we estimate that the capital cost for the proposed amendments would be between $100,000 and $200,000, depending on whether the existing equipment can be upgraded or will need to be replaced. The annualized cost are estimated to be between $11,419 and $22,837 per year. The estimated cost effectiveness would be $761 to $1,522 per ton of HAP (mainly chlorine and HCl).

D. What are the economic impacts?

1. Chromium Electroplating and Chromium Anodizing

EPA performed a screening analysis for impacts on all affected small entities by comparing compliance costs to average sales revenues by employment size category.[12] This is known as the cost-to-revenue or cost-to-sales ratio, or the "sales test." The "sales test" is the impact methodology EPA primarily employs in analyzing small entity impacts as opposed to a "profits test," in which annualized compliance costs are calculated as a share of profits. The sales test is frequently used because revenues or sales data are commonly available for entities impacted by EPA regulations, and profits data normally made available are often not the true profit earned by firms because of accounting and tax considerations. The use of a "sales test" for estimating small business impacts for a rulemaking is consistent with guidance offered by EPA on compliance with SBREFA [13] and is consistent with guidance published by the U.S. SBA's Office of Advocacy that suggests that cost as a percentage of total revenues is a metric for evaluating cost increases on small entities in relation to increases on large entities (U.S. SBA, 2010).[14]

Based on the analysis, we estimate that approximately 96 percent of all affected facilities have a cost-to-sales ratio of less than 1 percent. In addition, for approximately 1 percent of all affected facilities, or 9 facilities with fewer than 20 employees, the potential for cost-to-sales impacts may be between 3 and 8 percent. All of these facilities are in the hard chromium electroplating category, with 2 of the facilities in the small hard chromium electroplating category and 7 in the large hard chromium electroplating category. For these categories, because the average sales receipts used for the analysis may understate sales for some facilities and because these facilities are likely to be able to pass cost increases through to their customers, we do not anticipate the regulatory proposal to result in firm closures, significant price increases, or substantial profit loss. We conclude that this proposal will not have a significant economic impact on a substantial number of small entities. More information and details of this analysis are provided in the technical document "Economic Impact Analysis for Risk and Technology Review: Chromium Electroplating," which is available in the docket for this proposed rule.

2. Steel Pickling

Because only one of the approximately 100 facilities incurs any cost for controls and that cost is estimated to be less than 1 percent of sales, no significant price or productivity impacts are anticipated.

E. What are the benefits?

1. Chromium Electroplating and Chromium Anodizing

The estimated reductions in chromium emissions that will be achieved by this proposed rule will provide benefits to public health. The proposed limits will result in significant reductions in the actual and allowable emissions of hexavalent chromium therefore will reduce the actual and potential cancer risks due to emissions of chromium from this source category.

2. Steel Pickling

The estimated reductions in hydrogen chloride and chlorine emissions that will result from this proposed action will provide benefits to public health. The proposed limits will result in reductions in the potential for noncancer health effects due to emissions of these HAP.

VIII. Request for Comments

We are soliciting comments on all aspects of this proposed action. All comments received during the comment period will be considered. In EPA's strive to continue to promote sustainability in our protection of human health and the environment, we request comment on sustainability related to the types of fume suppressants and surfactants, depending on their chemical properties, which may have more or less potential for negative health and environmental impacts beyond the air emissions addressed by this supplemental proposal. In addition to general comments on this proposed action, we are also soliciting additional information and data (*e.g.*, on emissions, emissions concentrations results from stack emissions tests, flow rates, facility parameters, facility types, controls, test reports, *etc.*) that may help to reduce the uncertainties inherent in the risk assessments and any additional data that would inform the other analyses

[12] *http://www.census.gov/econ/susb/data/susb2002.html.*

[13] The SBREFA compliance guidance to EPA rulewriters regarding the types of small business analysis that should be considered can be found at: *http://www.epa.gov/sbrefa/documents/GuidanceRegFlexAct.pdf.* See Table 2 on page 36 for guidance on interpretations of the magnitude of the cost-to-sales numbers.

[14] U.S. SBA, Office of Advocacy. A Guide for Government Agencies, How to Comply with the Regulatory Flexibility Act, Implementing the President's Small Business Agenda and Executive Order 13272, June 2010.

described in this preamble (such as the analyses of the costs and reductions that would result from the proposed requirements). Because our current data set includes test results for only one chromium anodizing tank, we specifically request additional performance test data for chromium anodizing sources, including emissions concentration, exhaust flow rates, rectifier output, and control device type. Finally, we are requesting additional information on the costs and feasibility of using WAFS that do not contain PFOS to meet the proposed surface tension limits. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. We are not re-opening the public comment period for the actions proposed in the October 21, 2010 notice.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a significant regulatory action because it raises novel legal and policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

We are not proposing any new paperwork requirements to the Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants MACT standards. Revisions and burden associated with amendments to the Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks are discussed in the following paragraphs. The OMB has previously approved the information collection requirements contained in the existing regulation being amended with this proposed rule (*i.e.*, 40 CFR part 63, subparts N and CCC) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, et seq. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. Burden is defined at 5 CFR 1320.3(b).

The ICR document prepared by EPA for the amendments to the Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks NESHAP has been assigned EPA ICR number 1611.08. Burden changes associated with these amendments would result from the emission testing requirements and compliance demonstrations being proposed with today's action. The estimated average burden per response is 9 hours; the frequency of response is one-time for all respondents that must comply with the rule's reporting requirements and the estimated average number of likely respondents per year is 485. The cost burden to respondents resulting from the collection of information includes the total capital cost annualized over the equipment's expected useful life ($100,958), a total operation and maintenance component ($0 per year), and a labor cost component (about $152,116 per year).

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.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this rule, which includes these ICR, under Docket ID number EPA–HQ–OAR–2010–0600. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after February 8, 2012, a comment to OMB is best assured of having its full effect if OMB receives it by March 9, 2012. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impact of this supplemental proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule would impose more stringent emissions limits and lower surface tension requirements. These new proposed requirements and restrictions to the hard and decorative chromium electroplating and chromium anodizing tanks MACT standard will impact small entities, but those impacts have been estimated to be nominal. The proposed emissions limits reflect the level of performance currently being achieved by most facilities, and many facilities currently have emissions that are far below the proposed limits. With regard to the remaining facilities (those that will need to achieve emissions reductions). most of these facilities can achieve the proposed limits at low costs (*e.g.*, by using additional fume suppressants).

The EPA's analysis estimated that 96 percent of the affected entities will have an annualized cost of less than 1 percent of sales. In addition, approximately 1 percent of affected entities, or 9 facilities with fewer than 20 employees, may have cost-to-sales ratios between 3 to 8 percent. All of these facilities are in the hard chromium electroplating category, with 2 of the facilities in the small hard chromium electroplating category and 7 in the large hard chromium electroplating category.

Since our analysis indicates that a small subset of facilities (about 1 percent) may have cost-to-sales ratios greater than 3 percent, we have conducted additional economic impact analyses on this small subset of facilities to better understand the potential economic impacts for these facilities. The additional analyses indicate the estimates of costs-to-sales ratios in the initial analyses are more likely to be

overstated rather than understated because the additional analyses indicate that sales are typically higher for these sources than the average value used in the initial analysis.

Moreover, because of the nature of the market, these facilities are likely to be able to pass cost increases through to their customers. As such, we do not anticipate the proposal to result in firm closures, or substantial profit loss. More information and details of this analysis are provided in the technical document "Economic Impact Analysis for Risk and Technology Review: Chromium Electroplating," which is available in the docket for this proposed rule.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This proposed rule does not contain a Federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The proposed rule would not result in expenditures of $100 million or more for State, local, and tribal governments, in aggregate, or the private sector in any 1 year. The proposed rule imposes no enforceable duties on any State, local, or tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 or 205 of the UMRA.

This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action contains no requirements that apply to such governments nor does it impose obligations upon them.

E. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. 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 Executive Order 13132. None of the facilities subject to this action are owned or operated by State governments, and, because no new requirements are being promulgated, nothing in this proposal will supersede State regulations. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule will not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effect on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action would not relax the control measures on existing regulated sources. Nevertheless, this proposed action would result in reductions in cancer risks due to chromium emissions for people of all ages, including children. The EPA's risk assessments (included in the docket for this proposed rule) demonstrate that these regulations, with the amendments being proposed in today's action, will be health protective.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to hexavalent chromium.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" as defined under Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have significant adverse effect on the supply, distribution, or use of energy. This action will not create any new requirements for sources in the energy supply, distribution, or use sectors.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it maintains or increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority low-income, or indigenous populations. Further, the EPA is proposing that, after implementation of the provisions of this rule, the public health of all demographic groups will be protected with an ample margin of safety.

To examine the potential for any environmental justice issues that might be associated with two of the source categories associated with today's

proposed rule (Hard Chromium Electroplaters and Decorative Chromium Electroplaters), we evaluated the percentages of various social, demographic, and economic groups within the at-risk populations living near the facilities where these source categories are located and compared them to national averages. We did not conduct this type of analysis for the chromic acid anodizing or steel pickling categories because the numbers of people subjected to cancer risks greater than 1-in-1 million due to HAP emissions from these source categories were quite low. The development of demographic analyses to inform the consideration of environmental justice issues in EPA rulemakings is an evolving process. The EPA offers the demographic analyses in this rulemaking as examples of how such analyses might be developed to inform such consideration, and invites public comment on the approaches used and the interpretations made from the results, with the hope that this will support the refinement and improve utility of such analyses for future rulemakings.

Our analysis of the demographics of the population with estimated risks greater than 1-in-1 million indicates potential disparities in risks between demographic groups, including the African American, Other and Multiracial, Hispanic, Below the Poverty Level, and the Over 25 without a High School Diploma groups. These groups stand to benefit the most from the emission reductions achieved by this proposed rulemaking.

EPA defines "Environmental Justice" to include meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. To promote meaningful involvement, after the rule is proposed, EPA will be conducting a webinar to inform the public about the rule and to outline how to submit written comments to the docket. Further stakeholder and public input is expected through public comment and follow-up meetings with interested stakeholders.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 27, 2012.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

Subpart N—[Amended]

2. Section 63.341 is amended by adding, in alphabetical order in paragraph (a), definitions for *existing affected source* and *new affected source*.

§ 63.341 Definitions and nomenclature.

(a) * * *

Existing affected source means an affected hard chromium electroplating tank, decorative chromium electroplating tank, or chromium anodizing tank, the construction or reconstruction of which commenced on or before February 8, 2012.

* * * * *

New affected source means an affected hard chromium electroplating tank, decorative chromium electroplating tank, or chromium anodizing tank, the construction or reconstruction of which commenced after February 8, 2012.

* * * * *

3. Section 63.342 is amended by:

a. Revising paragraphs (c)(1)(i), (c)(1)(ii), and (c)(1)(iii);

b. Adding paragraph (c)(1)(iv);

c. Revising paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii);

d. Adding paragraph (c)(2)(vi);

e. Revising paragraphs (d)(1) and (d)(2); and

f. Adding paragraph (d)(3) to read as follows:

§ 63.342 Standards.

* * * * *

(c)(1) * * *

(i) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.011 milligrams of total chromium per dry standard cubic meter (mg/dscm) of ventilation air (4.8×10^{-6} grains per dry standard cubic foot (gr/dscf)) for all open surface hard chromium electroplating tanks that are existing affected sources and are located at large hard chromium electroplating facilities; or

(ii) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 mg/dscm (6.6×10^{-6} gr/dscf) for all open surface hard chromium electroplating tanks that are existing affected sources and are located at small, hard chromium electroplating facilities; or

(iii) If a chemical fume suppressant containing a wetting agent is used, not allowing the surface tension of the electroplating or anodizing bath contained within the affected tank to exceed 40 dynes per centimeter (dynes/cm) (2.8×10^{-3} pound-force per foot (lbf/ft)), as measured by a stalagmometer, or 33 dynes/cm (2.3×10^{-3} lbf/ft), as measured by a tensiometer at any time during tank operation; or

(iv) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.006 mg/dscm of ventilation air (2.6×10^{-6} gr/dscf) for all open surface hard chromium electroplating tanks that are new affected sources.

* * * * *

(2) * * *

(i) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.011 mg/dscm of ventilation air (4.8×10^{-6} gr/dscf) for all enclosed hard chromium electroplating tanks that are existing affected sources and are located at large hard chromium electroplating facilities; or

(ii) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 mg/dscm (6.6×10^{-6} gr/dscf) for all enclosed hard chromium electroplating tanks that are existing affected sources and are located at small, hard chromium electroplating facilities; or

(iii) If a chemical fume suppressant containing a wetting agent is used, not allowing the surface tension of the electroplating or anodizing bath contained within the affected tank to exceed 40 dynes/cm (2.8×10^{-3} lbf/ft), as measured by a stalagmometer, or 33 dynes/cm (2.3×10^{-3} lbf/ft), as measured by a tensiometer at any time during tank operation; or

* * * * *

(vi) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.006 mg/dscm of ventilation air (2.6×10^{-6} gr/dscf) for all enclosed hard chromium electroplating tanks that are new affected sources.

* * * * *

(d) *Standards for decorative chromium electroplating tanks using a chromic acid bath and chromium anodizing tanks.* During tank operation,

each owner or operator of an existing, new, or reconstructed affected source shall control chromium emissions discharged to the atmosphere from that affected source by either:

(1) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.007 mg/dscm (3.1×10^{-6} gr/dscf) for all existing decorative chromium electroplating tanks using a chromic acid bath and all existing chromium anodizing tanks; or

(2) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.006 mg/dscm (2.6×10^{-6} gr/dscf) for all new or reconstructed decorative chromium electroplating tanks using a chromic acid bath and all new or reconstructed chromium anodizing tanks;

(3) If a chemical fume suppressant containing a wetting agent is used, not allowing the surface tension of the electroplating or anodizing bath contained within the affected tank to exceed 40 dynes/cm (2.8×10^{-3} lbf/ft), as measured by a stalagmometer or 33 dynes/cm (2.3×10^{-3} lbf/ft), as measured by a tensiometer at any time during tank operation, for all existing, new, or reconstructed decorative chromium electroplating tanks using a chromic acid bath and all existing, new, or reconstructed chromium anodizing tanks.

* * * * *

4. Section 63.343 is amended by:

a. Revising paragraphs (a)(1), (a)(2), and (a)(4);

b. Revising paragraph (b)(1); and

c. Revising paragraphs (c)(1)(ii), (c)(2)(ii), (c)(4)(ii), (c)(5)(i), (c)(5)(ii), and (c)(6)(ii) to read as follows:

§ 63.343 Compliance provisions.

(a)(1) The owner or operator of an existing affected source shall comply with the emission limitations in § 63.342 no later than [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN **Federal Register**].

(2) The owner or operator of a new or reconstructed affected source that has an initial startup after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], shall comply immediately upon startup of the source.

* * * * *

(4) The owner or operator of a new area source (*i.e.*, an area source for which construction or reconstruction was commenced after February 8, 2012) that increases actual or potential emissions of hazardous air pollutants such that the area source becomes a major source must comply with the provisions for new major sources, immediately upon becoming a major source.

* * * * *

(b) *Methods to demonstrate initial compliance.* (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, an owner or operator of an affected source subject to the requirements of this subpart is required to conduct an initial performance test as required under § 63.7, using the procedures and test methods listed in §§ 63.7 and 63.344.

* * * * *

(c) * * *

(1) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the pressure drop across the composite mesh-pad system once each day that any affected source is operating. To be in compliance with the standards, the composite mesh-pad system shall be operated within ±2 inches of water column of the pressure drop value established during the initial performance test, or shall be operated within the range of compliant values for pressure drop established during multiple performance tests.

* * * * *

(2) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the velocity pressure at the inlet to the packed-bed system and the pressure drop across the scrubber system once each day that any affected source is operating. To be in compliance with the standards, the scrubber system shall be operated within ±10 percent of the velocity pressure value established during the initial performance test, and within ±1 inch of water column of the pressure drop value established during the initial performance test, or within the range of compliant operating parameter values established during multiple performance tests.

* * * * *

(4) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the pressure drop across the fiber-bed mist eliminator, and the control device installed upstream of the fiber bed to prevent plugging, once each day that any affected source is operating. To be in compliance with the standards, the fiber-bed mist eliminator and the upstream control device shall be operated within ±1 inch of water column of the pressure drop value established during the initial performance test, or shall be operated within the range of compliant values for pressure drop established during multiple performance tests.

* * * * *

(5) *Wetting agent-type or combination wetting agent-type/foam blanket fume suppressants.* (i) During the initial performance test, the owner or operator of an affected source complying with the emission limitations in § 63.342 through the use of a wetting agent in the electroplating or anodizing bath shall determine the outlet chromium concentration using the procedures in § 63.344(c). The owner or operator shall establish as the site-specific operating parameter the surface tension of the bath using Method 306B, appendix A of this part, setting the maximum value that corresponds to compliance with the applicable emission limitation. In lieu of establishing the maximum surface tension during the performance test, the owner or operator may accept 40 dynes/cm, as measured by a stalagmometer, or 33 dynes/cm, as measured by a tensiometer, as the maximum surface tension value that corresponds to compliance with the applicable emission limitation. However, the owner or operator is exempt from conducting a performance test only if the criteria of paragraph (b)(2) of this section are met.

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, the owner or operator of an affected source shall monitor the surface tension of the electroplating or anodizing bath. Operation of the affected source at a surface tension greater than the value established during the performance test, or greater than 40 dynes/cm, as measured by a stalagmometer, or 33 dynes/cm, as measured by a tensiometer, if the owner or operator is using this value in accordance with paragraph (c)(5)(i) of this section, shall constitute noncompliance with the standards. The surface tension shall be monitored according to the following schedule:

* * * * *

(6) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, the owner or

operator of an affected source shall monitor the foam blanket thickness of the electroplating or anodizing bath. Operation of the affected source at a foam blanket thickness less than the value established during the performance test, or less than 2.54 cm (1 inch) if the owner or operator is using this value in accordance with paragraph (c)(6)(i) of this section, shall constitute noncompliance with the standards. The foam blanket thickness shall be measured according to the following schedule:

* * * * *

5. Section 63.344 is amended by:

a. Adding paragraphs (b)(1)(v) through (b)(1)(viii); and

b. Deleting paragraph (b)(2); to read as follows:

§ 63.344 Performance test requirements and test methods.

* * * * *

(b)(1) * * *

(v) The performance test was conducted after January 25, 1995;

(vi) As of [DATE OF PUBLICATION OF FINAL RULE IN **Federal Register**], the source was using the same emissions controls that were used during the compliance test; and

(vii) As of [INSERT DATE OF PUBLICATION OF FINAL RULE IN **Federal Register**], the source was operating under conditions that are representative of the conditions under which the source was operating during the compliance test; and

(viii) Based on approval from the permitting authority.

* * * * *

6. Section 63.347 is amended by adding paragraph (f)(3) to read as follows:

§ 63.347 Reporting requirements.

* * * * *

(f)(3)(i) Within 90 days after the date of completing each performance test (defined in § 63.2) as required by this subpart, you must submit the results of the performance tests required by this subpart to EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*). Performance test data must be submitted in the file format generated through use of EPA's Electronic Reporting Tool (ERT) (see *http://www.epa.gov/ttn/chief/ert/index.html*). Only data collected using test methods on the ERT Web site are subject to this requirement for submitting reports electronically to WebFIRE. Owners or operators who claim that some of the information being submitted for performance tests is confidential business information (CBI) must submit a complete ERT file including information claimed to be CBI on a compact disk or other commonly used electronic storage media (including, but not limited to, flash drives) to EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to EPA via CDX as described earlier in this paragraph. At the discretion of the delegated authority, you must also submit these reports, including the confidential business information, to the delegated authority in the format specified by the delegated authority.

(ii) All reports required by this subpart not subject to the requirements in paragraphs (3)(i) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. The Administrator or the delegated authority may request a report in any form suitable for the specific case (*e.g.*, by commonly used electronic media such as Excel spreadsheet, on CD or hard copy). The Administrator retains the right to require submittal of reports subject to paragraph (3)(i) of this section in paper format.

* * * * *

Subpart CCC—[Amended]

7. Section 63.1157 is amended by revising (b)(2) to read as follows:

§ 63.1157 Emission standards for existing sources.

* * * * *

(b) * * *

(2) In addition to the requirement of paragraph (b)(1) of this section, no owner or operator of an existing plant shall cause or allow to be discharged into the atmosphere from the affected plant any gases that contain chlorine (Cl_2) in a concentration in excess of 6 ppmv.

* * * * *

§ 63.1161 [Amended]

8. Section 63.1161 is amended by deleting paragraph (c)(2).

9. Section 63.1164 is amended by revising (a) to read as follows:

§ 63.1164 Reporting requirements.

(a) *Reporting results of performance tests.* As required by § 63.10(d)(2) of subpart A of this part, the owner or operator of an affected source shall report the results of any performance test required by this paragraph to EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*). Performance test data shall be submitted in the file format generated through use of EPA's Electronic Reporting Tool (ERT) (see *http://www.epa.gov/ttn/chief/ert/index.html*). Only data collected using test methods listed on the ERT Web site are subject to this requirement for submitting reports electronically to WebFIRE. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) shall submit a complete ERT file including information claimed to be CBI on a compact disk or other commonly used electronic storage media (including, but not limited to, flash drives) by registered letter to EPA and the same ERT file with the CBI omitted to EPA via CDX as described earlier in this paragraph. The compact disk shall be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. At the discretion of the delegated authority, owners or operators shall also submit these reports to the delegated authority in the format specified by the delegated authority.

* * * * *

Appendix A—[Amended]

10. Appendix A to part 63, Method 306–B is amended revising paragraph 11.2.1.3 to read as follows:

METHOD 306B—SURFACE TENSION MEASUREMENT FOR TANKS USED AT CHROMIUM ELECTROPLATING AND CHROMIUM ANODIZING FACILITIES

* * * * *

11.0 Analytical Procedure

* * * * *

11.2.1.3 If a measurement of the surface tension of the solution is above the 40 dynes per centimeter limit, as measured using a stalagmometer, or above the 33 dynes per centimeter limit, as measured using a tensiometer, or above an alternate surface tension limit established during the performance test, the time interval shall revert back to the original monitoring schedule of once every 4 hours. A subsequent decrease in frequency would then be allowed according to Section 11.2.1.

* * * * *

[FR Doc. 2012–2434 Filed 2–7–12; 8:45 am]

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FEDERAL REGISTER

Vol. 77 Wednesday,
No. 26 February 8, 2012

Part III

The President

Executive Order 13599—Blocking Property of the Government of Iran and Iranian Financial Institutions

Federal Register
Vol. 77, No. 26
Wednesday, February 8, 2012

Presidential Documents

Title 3—

The President

Executive Order 13599 of February 5, 2012

Blocking Property of the Government of Iran and Iranian Financial Institutions

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) (NDAA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, in order to take additional steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995, particularly in light of the deceptive practices of the Central Bank of Iran and other Iranian banks to conceal transactions of sanctioned parties, the deficiencies in Iran's anti-money laundering regime and the weaknesses in its implementation, and the continuing and unacceptable risk posed to the international financial system by Iran's activities, hereby order:

Section 1. (a) All property and interests in property of the Government of Iran, including the Central Bank of Iran, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(b) All property and interests in property of any Iranian financial institution, including the Central Bank of Iran, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(c) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

Sec. 2. I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in Executive Order 12957, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 3. The prohibitions in section 1 of this order include but are not limited to: (a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 4. (a) The prohibitions in section 1 of this order apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

(b) The prohibitions in section 1 of this order do not apply to property and interests in property of the Government of Iran that were blocked pursuant to Executive Order 12170 of November 14, 1979, and thereafter made subject to the transfer directives set forth in Executive Order 12281 of January 19, 1981, and implementing regulations thereunder.

Sec. 5. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 6. Nothing in section 1 of this order shall prohibit transactions for the conduct of the official business of the Federal Government by employees, grantees, or contractors thereof.

Sec. 7. For the purposes of this order: (a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term "Government of Iran" means the Government of Iran, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran;

(e) the term "Iran" means the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements; and

(f) the term "Iranian financial institution" means a financial institution organized under the laws of Iran or any jurisdiction within Iran (including foreign branches), any financial institution in Iran, any financial institution, wherever located, owned or controlled by the Government of Iran, and any financial institution, wherever located, owned or controlled by any of the foregoing.

Sec. 8. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 12957, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order, other than the purposes described in section 11. The Secretary of the Treasury may redelegate any of these functions and authorities to other officers and agencies of the United States Government consistent with applicable law.

All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to exercise the functions and authorities conferred upon the President by section 1245(d)(1)(A) of the NDAA and to redelegate these functions and authorities consistent with applicable law. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby further authorized to exercise the functions and authorities conferred upon the President by section 1245(g)(1) of the NDAA to the extent necessary to exercise the other functions and authorities delegated in this section and may redelegate these functions and authorities consistent with applicable law.

Sec. 11. The Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Energy, and the Director of National Intelligence, is hereby authorized to exercise the functions and authorities conferred upon the President by section 1245(d)(4)(D) of the NDAA and to redelegate these functions and authorities consistent with applicable law. The Secretary of State, in consultation with the Secretary of the Treasury, is hereby further authorized to exercise the functions and authorities conferred upon the President by sections 1245(e)(1) and 1245(e)(2) of the NDAA and to redelegate these functions and authorities consistent with applicable law. The Secretary of State, in consultation with the Secretary of the Treasury, is hereby further authorized to exercise the functions and authorities conferred upon the President by section 1245(g)(1) of the NDAA to the extent necessary to exercise the other functions and authorities delegated in this section and may redelegate these functions and authorities consistent with applicable law.

Sec. 12. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 13. The measures taken pursuant to this order are in response to actions of the Government of Iran occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those later actions.

Sec. 14. This order is effective at 12:01 a.m. eastern standard time on February 6, 2012.

THE WHITE HOUSE,
February 5, 2012.

[FR Doc. 2012–3097
Filed 2–7–12; 11:15 am]
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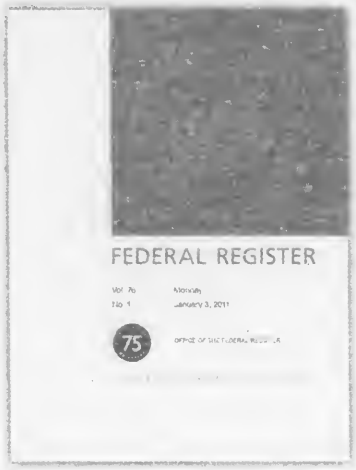

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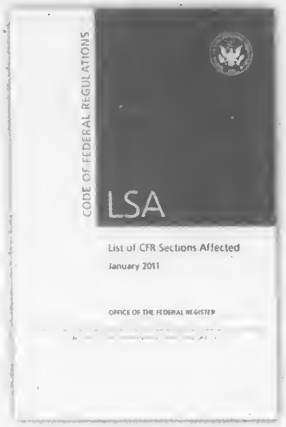

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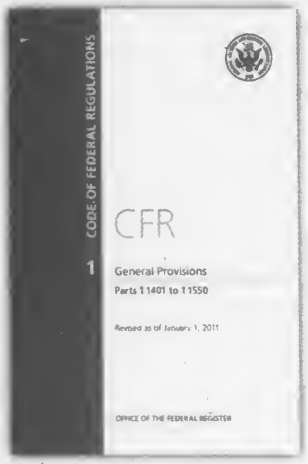

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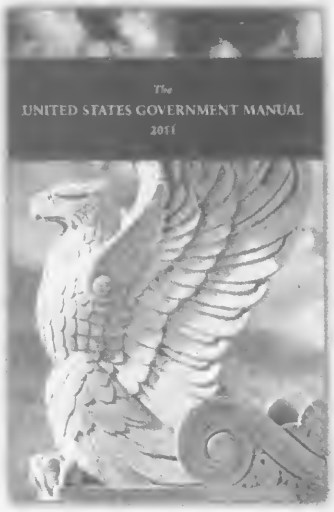

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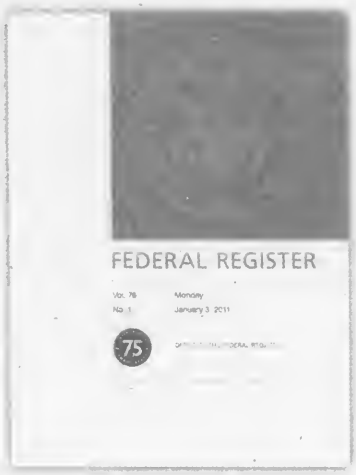

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