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WHEN: Tuesday, September 17, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. AMS–FV–13–0053; FV13–987–1 IR]

Domestic Dates Produced or Packed in Riverside County, California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the California Date Administrative Committee (Committee) for the 2013–14 and subsequent crop years from $0.90 to $0.40 per hundredweight of dates handled. The Committee locally administers the marketing order, which regulates the handling of dates grown or packed in Riverside County, California. Assessments upon date handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins October 1 and ends September 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective October 1, 2013. Comments received by November 4, 2013, will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior Marketing Specialist, or Martin Engeler, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Terry.Vawter@ams.usda.gov* or *Martin.Engeler@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR Part 987), regulating the handling of dates produced or packed in Riverside County, California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Riverside County, California, date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dates beginning October 1, 2013, and continue until amended, suspended, or terminated.

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

This rule decreases the assessment rate established for the Committee for the 2013–14 and subsequent crop years from $0.90 to $0.40 per hundredweight of dates.

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

The Committee met on June 20, 2013, and unanimously recommended 2013–14 expenditures of $97,700, and an assessment rate of $0.40 per hundredweight of Riverside County, California, dates. In comparison, last year's budgeted expenditures were $260,000. The assessment rate of $0.40 is $0.50 lower than the rate currently in effect.

The Committee recommended a lower assessment rate because of a significant decrease in its budgeted expenses. The industry will shift its marketing programs from the Committee to the California Date Commission, a California State marketing program, beginning October 1, 2013. Thus, the assessment revenue needed under the

order for the 2013–14 crop year has decreased. Income generated from the lower assessment rate, combined with cull surplus contributions, and carry-in funds from the 2012–13 crop year should be sufficient to cover anticipated 2013–14 expenses.

Proceeds from sales of cull dates are deposited into a surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets. Pursuant to § 987.72(b), the Committee is authorized to temporarily use funds derived from assessments to defray expenses incurred in disposing of surplus dates. All such expenses are required to be deducted from proceeds obtained by the Committee from the disposal of surplus dates. For the 2013–14 crop year, the Committee estimates that $3,000 from the surplus account would be needed to temporarily defray expenses incurred in disposing of surplus dates.

The major expenditures recommended by the Committee for the 2013–14 crop year include: $58,200 for general and administrative expenses, $20,000 for nutrition and food quality programs, and $19,500 for contingency funds. Budgeted expenses for the 2012–13 crop year included: $110,000 for generic marketing promotions, $83,520 for general and administrative expenses, $43,800 for nutrition marketing programs, and $12,680 for contingency funds.

The assessment rate of $0.40 per hundredweight of dates handled was recommended by the Committee after considering several factors: The anticipated size of the 2013–14 crop, the Committee's estimates of the incoming reserve, other income, and anticipated expenses. Date shipments for the year are estimated at 26,500,000 pounds (265,000 hundredweight) which should provide $106,000 in assessment income. Income derived from handler assessments, along with a $3,000 reimbursement for the cost of disposing of surplus culls, should be adequate to cover budgeted expenses.

Section 987.72(d) of the order states that the Committee may maintain a monetary reserve not to exceed 50 percent of the average of expenses incurred during the most recent 5 preceding crop years, except that an established reserve need not be reduced to conform to any recomputed average. The Committee expects to carry a $25,000 reserve into the 2013–14 crop year. It expects to add $11,300 to the reserve during the year, for a carryout of approximately $36,300, which is below the limit specified in the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings.

USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2013–14 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 70 producers of dates in the production area and 11 handlers subject to regulation under the marketing order. The Small Business Administration defines small agricultural producers as those having annual receipts less than $750,000, and small agricultural service firms as those whose annual receipts are less than $7,000,000. (13 CFR 121.201)

According to the National Agricultural Statistics Service (NASS), data for the most recently completed crop year (2011) shows that about 4.04 tons, or 8,080 pounds, of dates were produced per acre. The 2012 grower price published by NASS was $1,340 per ton, or $0.67 per pound. Thus, the value of date production per acre in 2011–12 averaged about $5,414 (8,080 pounds times $0.67 per pound). At that average price, a producer would have to farm over 138 acres to receive an annual income from dates of $750,000 ($750,000 divided by $5,414 per acre equals 138.53 acres). According to Committee staff, the majority of California date producers farm less than 138 acres. Thus, it can be concluded that the majority of date producers could be considered small entities. In addition, according to data from the Committee staff, the majority of handlers of California dates have receipts of less than $7,000,000 and may also be considered small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2013–14 and subsequent crop years from $0.90 to $0.40 per hundredweight of dates handled. The Committee unanimously recommended 2013–14 expenditures of $97,700 and an assessment rate of $0.40 per hundredweight of dates, which is $0.50 lower than the 2012–13 rate currently in effect. The quantity of assessable dates for the 2013–14 crop year is estimated at 26,500,000 pounds (265,000 hundredweight). Thus, the $0.40 rate should provide $106,000 in assessment income. Income derived from handler's assessments, along with the $3,000 contribution from the surplus program, should be adequate to meet the 2013–14 crop year expenses.

The major expenditures recommended by the Committee for the 2013–14 crop year include: $58,200 for general and administrative expenses, $20,000 for nutrition and food quality programs, and $19,500 for contingency funds. Budgeted expenses in the 2012–13 crop year include: $110,000 for generic marketing promotions, $83,520 for general and administrative expenses, $43,800 for nutrition marketing programs, and $12,680 for contingency funds.

The Committee recommended a lower assessment rate because the industry plans to shift its marketing programs to the State marketing program, the California Date Commission, beginning October 1, 2013. Thus, less assessment revenue is needed to fund Committee operations.

Section 987.72(d) of the order states that the Committee may maintain a monetary reserve not to exceed 50 percent of the average of expenses incurred during the most recent 5 preceding crop years, except that an established reserve need not be reduced

to conform to any recomputed average. The Committee expects to carry a $25,000 reserve into the 2013–14 crop year. It expects to add $11,300 to the reserve during the year, for a desired carryout of approximately $36,300, which is below the limit specified in the order.

The Committee reviewed and unanimously recommended 2013–14 crop year expenditures of $97,700. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Marketing Subcommittee and Budget Committee. Alternative expenditure levels and assessment rates were discussed by these groups, based upon the relative value of various projects to the date industry. The assessment rate of $0.40 per hundredweight of dates was then recommended after consideration of several factors, including the anticipated 2013–14 crop size, the Committee's estimates of the incoming reserve funds and other income, and their anticipated expenses.

A review of historical and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2013–14 crop year could range between $45.00 and $55.00 per hundredweight of dates. Utilizing these estimates and the assessment rate of $0.40 per hundredweight, the estimated assessment revenue for the 2013–14 crop year as a percentage of total grower revenue could range between 0.7 and 0.9 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California date industry, and all interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the June 20, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Industry members also discussed the various possible assessment rates, potential crop size, and estimated expenses at the Budget Committee meeting on June 6, 2013. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

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

This action imposes no additional reporting or recordkeeping requirements on either small or large Riverside County, California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

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

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2013–14 crop year begins on October 1, 2013, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such crop year; (2) the action decreases the assessment rate for assessable dates beginning with the 2013–14 crop year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2013, an assessment rate of $0.40 per hundredweight is established for Riverside County, California, dates.

Dated: August 27, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–21309 Filed 8–30–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28059; Directorate Identifier 2007–NE–13–AD; Amendment 39–17526; AD 2013–15–10]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc (RR) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2012–10–12 for all RR RB211–Trent 553–61, 553A2–61, 556–61, 556A2–61, 556B–61, 556B2–61, 560–61, 560A2–61, 768–60, 772–60, 772B–60, 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 turbofan engines. AD 2012–10–12 required inspecting the intermediate-pressure (IP) compressor rotor shaft rear balance land for cracks. We are issuing this AD to require inspections of the IP compressor rotor shaft, as required by AD 2012–10–12, to add on-wing

inspections for the Trent 500 engines, and to add on-wing and in-shop inspections for the Trent 900 engines. This AD was prompted by detection of a crack in a Trent 500 IP compressor rotor shaft rear balance land during a shop visit. Further engineering evaluation, done by RR, concluded that the cracking may also exist in Trent 900 engines. We are issuing this AD to detect cracking on the IP compressor rotor shaft rear balance land, which could lead to uncontained engine failure and damage to the airplane.

DATES: This AD is effective October 8, 2013.

The Director of the Federal Register approved the incorporation by reference (IBR) of certain publication listed in the AD as of October 8, 2013.

The Director of the Federal Register approved the IBR of certain other publications listed in this AD as of June 29, 2012 (77 FR 31176, May 25, 2012).

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–245418; email: *http://www.rolls-royce.com/contact/civil_team.jsp.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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 AD, the Mandatory Continuing Airworthiness Information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–10–12, Amendment 39–17061 (77 FR 31176, May 25, 2012). AD 2012–10–12 applied to the specified products. The NPRM published in the **Federal Register** on March 21, 2013 (78 FR 17300). The NPRM proposed to require inspections of the IP compressor rotor shaft, as required by AD 2012–10–12, on-wing inspections for the Trent 500 engines, and on-wing and in-shop inspections for the Trent 900 engines.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request To Not Include Revision Level of Service Bulletin (SB)

Texas Aero Engine Service LLC (TAESL) requested that we not include the revision of the SB or that we include "or later revision" in the AD. The commenter's justification for this request is that the SBs are revised often.

We do not agree. The SBs contain unique methods that require IBR. We do not know how a SB will be revised in the future; therefore, we cannot use "or later revision". Any future revisions can be addressed using paragraph (m) of this AD. We did not change the AD.

Request To Include an Alternate Method of Compliance

TAESL requested that RR SB No. RB.211–72–AG401 be included as an alternative means of compliance and that the requirement to perform an eddy current inspection (ECI), on engines which have had the new balance weights fitted using RR SB No. RB.211–72–AG401, be removed. The justification for this request is that the SB describes procedures for replacing the existing balance weights with new balance weights.

We do not agree. The unsafe condition was identified in the existing balance weights that were installed, RR SB No. RB.211–72–AG401 introduces the new balance weights. In paragraph (j) of this AD we mandate removal of the existing balance weights as terminating action, as opposed to installation of the new balance weights. We did not IBR RR SB No. RB.211–72–AG401 because there could be future versions of the balance weights that would also be acceptable. We did not change the AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 17300, March 21, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 17300, March 21, 2013).

Costs of Compliance

We estimate that this AD will affect about 136 engines installed on airplanes of U.S. registry. We also estimate that it will take about 14 hours per engine to perform the required inspections. The average labor rate is $85 per hour. Replacement parts are estimated to cost about $2,271 per engine. Based on these figures, we estimate the cost of the AD on U.S. operators to be $470,696.

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 have determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

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

(3) Will not affect intrastate aviation in Alaska, to the extent that it justifies making a regulatory distinction, 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.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 removing airworthiness directive (AD) 2012–10–12, Amendment 39–17061 (77 FR 31176, May 25, 2012), and adding the following new AD:

2013–15–10 Rolls-Royce plc: Amendment 39–17526; Docket No. FAA–2007–28059; Directorate Identifier 2007–NE–13–AD.

(a) Effective Date

This AD is effective October 8, 2013.

(b) Affected ADs

This AD supersedes AD 2012–10–12, Amendment 39–17061 (77 FR 31176, May 25, 2012).

(c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211–Trent 553–61, 553A2–61, 556–61, 556A2–61, 556B–61, 556B2–61, 560–61, 560A2–61, 768–60, 772–60, 772B–60, 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, 895–17, 970–84, 970B–84, 972–84, 972B–84, 977–84, 977B–84, and 980–84 turbofan engines.

(d) Unsafe Condition

This AD was prompted by detection of a crack in a Trent 500 intermediate-pressure (IP) compressor rotor shaft rear balance land with follow-on RR engineering evaluation concluding that cracking may also exist in Trent 900 engines. We are issuing this AD to detect cracking on the IP compressor rotor shaft rear balance land, which could lead to uncontained engine failure and damage to the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(f) RB211–Trent 700 Series Engines—Rear Balance Land Inspections

(1) Within 625 cycles-in-service (CIS) after June 29, 2012, or before the next flight after the effective date of this AD, whichever occurs later, borescope inspect the IP compressor rotor shaft rear balance land. Use RB211 Trent 700 Series Propulsion System Non-Modification Alert Service Bulletin (NMASB) No. RB.211–72–AG270, Revision 4, dated March 21, 2011, sections 3.A.(2)(a) through 3.A.(2)(c) and 3.A.(3)(a) through 3.A.(3)(c) for in-shop procedures, or 3.B.(2)(a) through 3.B.(2)(c) and 3.B.(4)(a) through 3.B.(4)(c) for on-wing procedures, to do the inspection.

(2) Thereafter, repeat the inspection within every 625 cycles-since-last inspection (CSLI). You may count CSLI from the last borescope inspection or the last eddy current inspection (ECI), whichever occurred last.

(3) At each shop visit after the effective date of this AD, perform an ECI and visually inspect the IP compressor rotor shaft rear balance land, and visually inspect the balance weights. Use RB211 Trent 700 and Trent 800 Series Propulsion Systems NMASB No. RB.211–72–AG085, Revision 2, dated July 7, 2011, sections 3.A. through 3.C., to do the inspections.

(g) RB211–Trent 800 Series Engines—Rear Balance Land Inspections

(1) Within 475 CIS after June 29, 2012, or before the next flight after the effective date of this AD, whichever occurs later, borescope inspect the IP compressor rotor shaft rear balance land. Use RB211 Trent 800 Series Propulsion System NMASB No. RB.211–72–AG264, Revision 5, dated March 21, 2011, sections 3.A.(2)(b) through 3.A.(2)(c) and 3.A.(3)(a) through 3.A.(3)(c) for in-shop procedures, or 3.B.(2)(a) through 3.B.(2)(c) and 3.B.(4)(a) through 3.B.(4)(c) for on-wing procedures, to do the inspection.

(2) Thereafter, repeat the inspection within every 475 CSLI. You may count CSLI from the last borescope inspection or the last ECI, whichever occurred last.

(3) At each shop visit, perform an ECI and visually inspect the IP compressor rotor shaft rear balance land, and visually inspect the balance weights. Use RB211 Trent 700 and Trent 800 Series Propulsion Systems NMASB No. RB.211–72–AG085, Revision 2, dated July 7, 2011, sections 3.A. through 3.C. and 3.D.(3) to do the inspections.

(h) RB211–Trent 500 Series Engines—Rear Balance Land Inspections

(1) Within 340 CIS after the effective date of this AD, borescope inspect the IP compressor rotor shaft rear balance land. Use RB211 Trent 500 Series Propulsion Systems NMASB No. RB.211–72–AH058, dated December 13, 2012, sections 3.A.(2)(a) through 3.A.(2)(c), 3.A.(3)(a) through 3.A.(3)(d), and 3.A.(5)(a) through 3.A.(5)(c) for on-wing procedures, to do the inspection.

(2) Thereafter, repeat the inspection within every 340 CSLI. You may count CSLI from the last borescope inspection or the last ECI, whichever occurred last.

(3) At each shop visit, perform an ECI and visually inspect the IP compressor rotor shaft rear balance land, and visually inspect the balance weights. Use RB211 Trent 500 and Trent 900 Series Propulsion Systems Non-Modification Service Bulletin (NMSB) No. RB.211–72–G448, Revision 3, dated July 7, 2011, sections 3.D.(4) through 3.D.(5), 3.D.(6)(f) through 3.D.(7)(w), 3.D.(8)(f) through 3.D.(8)(w), 3.D.(11), 3.D.(12), and 3.D.(e) to do the inspections.

(i) RB211–Trent 900 Series Engines—Rear Balance Land Inspections

(l) Within 280 flight cycles after the effective date of this AD, borescope inspect the IP compressor rotor shaft rear balance land. Use RB211 Trent 900 Series Propulsion Systems NMASB No. RB.211–72–AH059, dated December 11, 2012, sections 3.A.(2)(a) through 3.A.(2)(c), 3.A.(3)(a) through 3.A.(3)(d), 3.A.(5)(a) through 3.A.(5)(c), and 3.D.(e) to do the inspection.

(2) Thereafter, repeat the inspection within every 280 CSLI. You may count from the last borescope inspection or the last ECI, whichever occurred last.

(3) At each shop visit after the effective date of this AD, perform an ECI and visually inspect the IP compressor rotor shaft rear balance land, and visually inspect the balance weights. Use RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211–72–G448, Revision 3, dated July 7, 2011, sections 3.D.(4) through 3.D.(5), 3.D.(6)(f) through 3.D.(7)(w), 3.D.(8)(f) through 3.D.(8)(w), 3.D.(11), and 3.D.(12), to do the inspection.

(j) Mandatory Termination Action for RB211–Trent 700 and RB211–Trent 800 Engines

(1) For RB211–Trent 700 engines. At the next shop visit in which any level of inspection or strip is scheduled to be carried out on the IP compressor, remove the existing IP compressor balance weights.

(2) For RB211–Trent 800 engines. At the next shop visit in which any level of inspection or strip is scheduled to be carried out on the IP compressor, remove the existing IP compressor balance weights.

(3) Once you have removed the balance weights, do not re-install them on any IP compressor shaft rear balance land.

(k) Credit for Previous Actions

(1) For RB211–Trent 700 series engines:

(i) If you borescope inspected your RB211-Trent 700 series engine using RB211 Trent 700 Series Propulsion System NMASB No. RB.211–72–AG270, Revision 1, dated December 14, 2009, or Revision 2, dated December 21, 2010, or Revision 3, dated February 25, 2011, before the effective date of this AD, you have satisfied the requirements of paragraph (f)(1) of this AD.

(ii) If you performed the ECI and visual inspection of your RB211–Trent 700 series engine using RB211 Trent 700 and Trent 800 Series Propulsion Systems NMASB No. RB.211–72–AG085, Revision 1, dated September 27, 2010, before the effective date of this AD, you have satisfied the ECI and visual inspections required by paragraph

(f)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (f)(2) and (f)(3) of this AD.

(2) For RB211–Trent 800 series engines:

(i) If you borescope inspected your RB211–Trent 800 series engine using RB211 Trent 800 Series Propulsion System NMASB No. RB.211–72–AG264, Revision 3, dated December 21, 2010, or Revision 4, dated February 25, 2011, before the effective date of this AD, you have satisfied the requirements of paragraph (g)(1) of this AD.

(ii) If you performed the ECI and in-shop visual inspection of your RB211–Trent 800 series engine using RB211 Trent 700 and Trent 800 Series Propulsion Systems NMASB No. RB.211–72–AG085, Revision 1, dated September 27, 2010, before the effective date of this AD, you have satisfied the ECI and visual inspections required by paragraph (g)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (g)(2) and (g)(3) of this AD.

(3) For RB211–Trent 500 and 900 series engines:

(i) If you borescope inspected your RB211–Trent 500 series engine using RB211 Trent 500, 700 and 800 Series Propulsion Systems NMASB No. RB.211–72–AF260, Revision 4, dated July 28, 2009, or using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211–72–G448, Revision 2, dated December 23, 2010 before the effective date of this AD, you have satisfied the ECIs required by paragraph (h)(3) of this AD.

(ii) If you performed the ECI and in-shop visual inspection of your RB211–Trent 500 series engine using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211–72–G448, Revision 2, dated December 23, 2010, before the effective date of this AD, you have satisfied the ECI and visual inspections required by paragraph (h)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (h)(2) and (h)(3) of this AD.

(4) For RB211–Trent 900 series engines:

(i) If you borescope inspected your RB211–Trent 900 series engine using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211–72–G448, Revision 2, dated December 23, 2010, before the effective date of this AD, you have satisfied the requirements of paragraph (i)(1) of this AD.

(ii) If you performed the ECI and in-shop visual inspection of your RB211–Trent 900 series engine using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211–72–G448, Revision 2, dated December 23, 2010, before the effective date of this AD, you have satisfied the ECI and visual inspections required by paragraph (i)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (i)(2) and (i)(3) of this AD.

(l) Definitions

For the purpose of this AD, a shop visit is defined as introduction of an engine into the shop and disassembly sufficient to expose the IP compressor module rear face.

(m) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures in 14 CFR 39.19 to make your request.

(n) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: frederick.zink@faa.gov.

(2) Refer to European Aviation Safety Agency, AD 2013–0002, dated January 4, 2013, for more information. You may examine this AD on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA–2007–28059–0022.*

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on October 8, 2013.

(i) Rolls-Royce plc Non-Modification Alert Service Bulletin No. RB211 Trent 900 Series Propulsion Systems NMASB No. RB.211–72–AH059, dated December 11, 2012.

(ii) Rolls-Royce plc Non-Modification Alert Service Bulletin No. RB211 Trent 500 Series Propulsion Systems RB.211–72–AH058, dated December 13, 2012.

(4) The following service information was approved for IBR on June 29, 2012, (77 FR 31176, May 25, 2012).

(i) Rolls-Royce plc RB211 Trent 700 Series Propulsion System Non-Modification Alert Service Bulletin No. RB.211–72–AG270, Revision 4, dated March 21, 2011.

(ii) Rolls-Royce plc RB211 Trent 700 and 800 Series Propulsion Systems Non-Modification Alert Service Bulletin No. RB.211–72–AG085, Revision 2, dated July 7, 2011.

(iii) Rolls-Royce plc RB211 Trent 800 Series Propulsion System Non-Modification Alert Service Bulletin No. RB.211–72–AG264, Revision 5, dated March 21, 2011.

(iv) Rolls-Royce plc RB211 Trent 500 Series Propulsion System Non-Modification Alert Service Bulletin No. RB.211–72–AF260, Revision 5, dated July 7, 2011.

(v) Rolls-Royce plc RB211 Trent 500 and 900 Series Propulsion Systems Non-Modification Service Bulletin No. RB.211–72–G448, Revision 3, dated July 7, 2011.

(5) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–245418; Internet: *http://www.rolls-royce.com/contact/civil_team.jsp.*

(6) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

(7) You may also view this service information that is IBR at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr_locations.html.*

Issued in Burlington, Massachusetts, on July 22, 2013.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–21108 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0143; Directorate Identifier 2013–NE–06–AD; Amendment 39–17561; AD 2013–16–23]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211–524B–02; –524B2–19; –524B3–02; –524B4–02; –524C2–19; –524D4–19; –524D4–B–19; –524D4–39; –535C–37; –535E4–37; –535E4–B–37, and –535E4–B–75 turbofan engines, and all RB211–524G2–19; –524G3–19; –524H2–19; and –524H–36 turbofan engines. This AD requires a one-time inspection of the front combustion liner (FCL) metering panel to determine if it is made from N75 material and, if so, replacing it with an FCL made from C263 material. This AD was prompted by the discovery of a cracked and distorted FCL metering panel, which was made from N75 material. We are issuing this AD to prevent hot gases from burning through the engine casing, which could result in an under-cowl fire and damage to the airplane.

DATES: This AD becomes effective October 8, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 8, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

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 AD, the Mandatory Continuing Airworthiness Information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on April 5, 2013 (78 FR 20505). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> During investigation of a starting problem with an RB211–535E4–B–37 engine, the Fuel Spray Nozzles (FSNs) appeared misaligned and the engine was removed. Further investigation found that the FSNs were correctly positioned but that the Front Combustion Liner (FCL) metering panel (reference Engine Illustrated Parts Catalogue (EIPC) section 72–41–13, Figure/Item 02–324) was cracked and distorted. Laboratory investigation revealed that the FCL metering panel was made of N75 material rather than the specified C263 material.
>
> Rolls-Royce (RR) issued SB RB.211–72–7221 in 1984, to address the issue of cracking of FCL metering panels manufactured in N75 material. SB RB.211–72–7221 replaces the FCL metering panel manufactured in N75 material with one manufactured in C263 material. The FCL metering panel in so-called Phase 2 combustors of the RB211–524G/H and RB211–535C/E4/E4–B series engines was specified in C263 material from engine type at entry into service.
>
> Based on these findings, it was determined that installation of N75 material FCL metering panels on an engine where C263 was the intended material may result in metering panel cracking and distortion.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request To Correct an Applicability Date

American Airlines (AAL) requested that we correct a date cited in paragraph (c)(4)(i) of the NPRM (78 FR 20505, April 5, 2013) used to determine the affected engines. The NPRM states that combustion liners supplied by RR after April 23, 2011 are not affected by this AD, whereas RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AG046, Revision 3, dated December 6, 2012, and RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, cite the correct date as April 23, 2007.

We agree. We changed the date. Paragraph (c)(4) of this AD now states that combustion liners supplied by RR after April 23, 2007, are not affected by this AD..

Request To Allow Alternative Inspection Method During Engine Shop Visits

AAL and Texas Aero Engine Services, LLC (TAESL) requested that we allow using RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, as a means to comply with the FCL inspections. AAL indicated that the Alert NMSB defines an inspection equivalent to that in the AD, which therefore should allow using the NMSB at the shop level. In addition, TAESL requested that we allow using Revision 1, Revision 2, or later revisions of RR Alert NMSB No.RB.211–72–AF572 to comply with the AD.

We partially agree. We agree that RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, provide an acceptable inspection. We changed the AD to add RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, and Revision 1, dated October 10, 2008, to the compliance paragraph, by adding paragraphs (e)(2)(ii) and (e)(3)(ii).

New paragraph (e)(2)(ii) states: "You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211–72–AG183, Revision 3, dated December 6, 2012, for engine shop visit inspections."

New paragraph (e)(3)(ii) states: "You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, for engine shop visit inspections."

We disagree with including possible future versions of the Alert NMSB because what future versions may contain is speculation. We did not change the AD.

Request To Use Spectroscopic Analysis To Determine if the FCL Metering Panel Is Made From N75 Material

AAL requested that we allow an alternate procedure to obtain and analyze the FCL material. RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, requires the use of an alloy sorter to identify the FCL material as either C263 or N75. If the sorter identifies the material as N75, the Alert NMSB requires that a sample be provided to RR for confirmation by spectroscopic analysis. AAL proposed an alternate procedure be accepted to obtain and analyze a sample of material from the FCL in accordance with RB.211–72–AG046, paragraph 3.(B).5.(p)(i) for all inspections instead of using the alloy sorter as a preliminary step. The alternative procedure includes the use of a local laboratory for the spectroscopic analysis.

We agree. Paragraph 3.(B).5.(p)(i) identifies, among other things, how to obtain the sample. AAL's alternate process uses paragraph 3.(B).5.(p)(i) to obtain the sample. AAL's proposed follow-on analysis is simpler as it avoids use of the alloy sorter. However, spectroscopic analysis then becomes required. The analysis need not be limited to RR facilities, but can be conducted locally in the context of an FAA-accepted maintenance or quality plan.

We changed the AD by adding paragraphs (e)(2)(iii) and (e)(2)(iv), and also (e)(3)(iii) and (e)(3)(iv).

New paragraph (e)(2)(iii) states: "You may use paragraph 3.B.(5)(p)(i) of RR Alert NMSB No. RB.211–72–AG183, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.B.(3) through 3.B.(5)(p) and paragraphs 3.C.(5)(q) and (r)."

New paragraph (e)(3)(iii) states: "You may use paragraph 3.C.(5)(p)(i) of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.C.(3) through 3.C.(5)(p), and paragraph 3.C.(5)(q)."

New paragraphs (e)(2)(iv) and (e)(3)(iv) state: "You may use a local facility in the context of an FAA-accepted maintenance or quality plan to perform the spectroscopic analysis."

Request To Substitute Locally Sourced Tools To Conduct Pressure Test

AAL requested that we allow the use of a locally sourced pressure test adaptor and pressure gauge in place of tools specified by part number in RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012.

We agree. Locally sourced tooling approved under an FAA-accepted maintenance or quality plan is acceptable for use. We changed the AD by adding paragraph (e)(3)(v) which states: "The accomplishment instructions in paragraphs 3.B.(6)(g)(iii) and 3.B.(6)(j)(i) of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, specify use of RR tooling for the post-inspection fuel manifold pressure test. However, you may use locally sourced tooling in the context of an FAA-accepted maintenance or quality plan."

Request To Be Less Precise in References to NMSB Revision Numbers

TAESL requested that we not specify use of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, for the inspection, and that we either remove the revision number or add the words "or later revision" because service bulletins can be revised frequently. Similarly, TAESL requested that in paragraph (c)(ii), Applicability, we change the reference to RR Alert NMSB No. RB.211–72–AF572 to say "Revision 1 or 2, or later revision."

We partially agree.

We agree that RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, and Revision 1, dated October 10, 2008, and Initial Issue, dated October 15, 2007 are acceptable inspections for prior compliance. We changed the AD by adding paragraph (f), Credit for Previous Actions.

New paragraph (f) states: "(1) You have satisfied the inspection requirement of paragraph (e) of this AD if, before the effective date of this AD, you performed the actions prescribed in this AD using: (i) RR Alert NMSB No. RB.211–72–AG183, Revision 3, dated December 6, 2012, or Revision 2, dated June 8, 2012, or Revision 1, dated November 16, 2010, or Initial Issue, dated December 17, 2009; or (ii) RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, or Revision 2, dated June 7, 2012, or Revision 1, dated January 17, 2011, or Initial Issue, dated December 17, 2009; or (iii) RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or Initial Issue, dated October 15, 2007; or (iv) RR Repeater Technical Variance No. 75295, Issue 1, dated April 20, 2007."

We disagree with including possible future versions of the Alert NMSB because what future versions may contain is speculation. We did not change the AD.

Request To Replace Flight Cycle Requirement With Compliance at Next Shop Visit

UPS requested that we remove from compliance the flight cycle requirement and instead require compliance at the next shop visit. UPS has completed inspection of 67 of 89 affected engines, with no findings. The remaining engines are locked in specific geographic areas that do not afford favorable opportunities to accomplish material verification. UPS believes the risk of finding a combustion liner metering panel fabricated of N75 material is low.

We disagree. The RR risk assessment that we reviewed estimates 25 field findings. There have been seven findings to date, leaving 18 potential additional findings. The cyclic compliance requirement, average fleet utilization, and alternative inspection methods provide adequate ability to manage remaining inspections in a timely manner during scheduled maintenance opportunities. We did not change the AD.

Request To Lower the Estimated Costs of Compliance

AAL requested that we lower, based on the inspection results to date, our estimate of costs of compliance. The NPRM (78 FR 20505, April 5, 2013) estimates that 315 engines of U.S. registry are affected, and that 12 engines will test positive for N75. AAL believes that this estimate is too high.

AAL stated that, to date, 770 engines of the worldwide fleet have been inspected using RR NMSB No. RB.211–72–AF572 and RB.211–72–AG046. Two engines were confirmed to have an N75 material FCL metering panel in the shop using RB.211–72–AF572 and one was the original event engine. No engines with confirmed FCL metering panel with N75 material have been found in the worldwide fleet using RR NMSB No. RB.211–72–AG046.

We disagree. As of March 15, 2013, we are aware of seven findings—the known failure of one engine, two findings for new productions engines, and four findings for engines inspected in the field. We did not change the AD.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD will affect about 315 RR RB211–524 and RB211–535 turbofan engines installed on airplanes of U.S. registry. We also estimate that it will take about 11 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts will cost about $108,887 per engine. We anticipate that 12 FCL metering panels will fail inspection. Based on these figures, we estimate the cost of the AD on U.S. operators to be $1,601,169.

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 AD will not have federalism implications under Executive Order 13132. This AD will 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 AD:

(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 to the extent that it justifies making a regulatory distinction, 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 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.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2013–16–23 Rolls-Royce plc: Amendment 39–17561; Docket No. FAA–2013–0143; Directorate Identifier 2013–NE–06–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective October 8, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to:

(1) All Rolls-Royce plc (RR) RB211–524G2–19; –524G3–19; –524H2–19; and –524H–36 turbofan engines;

(2) RR RB211–524B–02; –524B2–19; –524B3–02; –524B4–02; –524C2–19; –524D4–19; –524D4–B–19; and –524D4–39 turbofan engines that have incorporated RR Service Bulletin (SB) No. RB.211–72–7221, dated December 7, 1984;

(3) All RR RB211–535C–37; –535E4–37; –535E4–B–37, and –535E4–B–75 turbofan engines, except those engines that have incorporated RR SB No. RB.211–72–C230, Revision 1, dated November 22, 2012, or Initial Issue, dated November 16, 1999.

(4) This AD does not apply to engines listed in paragraphs (c)(1) through (c)(3) of this AD that have installed a front combustion liner (FCL) metering panel delivered from RR after April 23, 2007.

(d) Reason

This AD was prompted by the discovery of a cracked and distorted FCL metering panel, made from N75 material. We are issuing this AD to prevent hot gases from burning through the engine casing, which could result in an under-cowl fire and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(1) At the next engine shop visit or within 625 flight cycles, whichever occurs first after the effective date of this AD, perform a one-time inspection of the FCL metering panel to determine if it is made from N75 material, and if made from N75 material, replace it with one made from C263 material.

(2) To inspect RR RB211–524 series turbofan engines:

(i) Use paragraph 3. of the Accomplishment Instructions of RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AG183, Revision 3, dated December 6, 2012; or

(ii) You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211–72–AG183, Revision 3, dated December 6, 2012, for engine shop visit inspections.

(iii) You may use paragraph 3.B.(5)(p)(i) of RR Alert NMSB No. RB.211–72–AG183, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.B.(3) through 3.B.(5)(p), and paragraphs 3.C.(5)(q) and (r).

(iv) You may use a local facility in the context of an FAA-accepted maintenance or quality plan to perform the spectroscopic analysis.

(3) To inspect RR RB211–535 series turbofan engines:

(i) Use paragraph 3. of the Accomplishment Instructions of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012; or

(ii) You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, for engine shop visit inspections.

(iii) You may use paragraph 3.C.(5)(p)(i) of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.C.(3) through 3.C.(5)(p), and paragraph 3.C.(5)(q).

(iv) You may use a local facility to perform the spectroscopic analysis in the context of an FAA-accepted maintenance or quality plan.

(v) The accomplishment instructions in paragraphs 3.B.(6)(g)(iii) and 3.B.(6)(j)(i) of RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, specify use of RR tooling for the post-inspection fuel manifold pressure test. However, you may use locally sourced tooling in the context of an FAA-accepted maintenance or quality plan.

(f) Credit for Previous Actions

(1) You have satisfied the inspection requirement of paragraph (e) of this AD if, before the effective date of this AD, you performed the actions prescribed in this AD using:

(i) RR Alert NMSB No. RB.211–72–AG183, Revision 3, dated December 6, 2012, or Revision 2, dated June 8, 2012, or Revision 1, dated November 16, 2010, or Initial Issue, dated December 17, 2009; or

(ii) RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012, or Revision 2, dated June 7, 2012, or Revision 1, dated January 17, 2011, or Initial Issue, dated December 17, 2009; or

(iii) RR Alert NMSB No. RB.211–72–AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or Initial Issue, dated October 15, 2007; or

(iv) RR Repeater Technical Variance No. 75295, Issue 1, dated April 20, 2007.

(g) Definition

For the purpose of this AD, a shop visit is the induction of an engine into the shop for maintenance or overhaul. The separation of engine flanges solely for the purposes of transporting the engine without subsequent engine maintenance does not constitute an engine shop visit.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238 7199; email: *robert.green@faa.gov.*

Refer to European Aviation Safety Agency AD 2012–0215R1, dated January 4, 2013, for more information. You may examine the AD on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA–2013–0143–0009.*

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Rolls-Royce plc (RR) Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AF572, Revision 2, dated April 2, 2009.

(ii) RR Alert NMSB No. RB.211–72–AF572, Revision 1, dated October 10, 2008.

(iii) RR Alert NMSB No. RB.211–72–AG183, Revision 3, dated December 6, 2012.

(iv) RR Alert NMSB No. RB.211–72–AG046, Revision 3, dated December 6, 2012.

(3) For Rolls-Royce plc service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://www.aeromanager.com.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington,

MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on August 7, 2013.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9633]

RIN 1545–BE58

Limitations on Duplication of Net Built-in Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 362(e)(2) of the Internal Revenue Code of 1986 (Code). The regulations apply to certain nonrecognition transfers of loss property to corporations. The regulations affect all parties to the transaction.

DATES: *Effective Date:* These final regulations are effective on September 3, 2013.

Applicability Date: For dates of applicability see § 1.358–2(d), § 1.362–4(j).

FOR FURTHER INFORMATION CONTACT: Theresa A. Abell (202) 622–7700 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB control number 1545–2247. The collection of information in these final regulations is in § 1.362–4(d). This information is required by the IRS to verify basis of property transferred in certain tax-free transactions when taxpayers make the election provided for under section 362(e)(2)(C).

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.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

Background

Section 362(e)(2) was enacted in the American Jobs Creation Act of 2004 (Pub. L. 108–357, 188 Stat. 1418 (2004)) in order to prevent the duplication of loss in certain corporate nonrecognition transfers. Section 362(e)(2) applies to corporate acquisitions of property with a net built-in loss in transactions described in section 362(a) (transactions to which section 351 applies and acquisitions of property as paid-in surplus or contributions to capital), but only if the transaction is not described in section 362(e)(1) (transactions in which there is an importation of built-in loss). When a transaction is subject to section 362(e)(2), the acquiring corporation's basis in loss property is reduced by the property's allocable portion of the transferor's net built-in loss. See section 362(e)(2)(B). However, under section 362(e)(2)(C), the parties to the transaction can make an irrevocable election to apply the reduction to the transferor's basis in the stock received in the exchange instead of to the transferee's basis in the property received in the exchange.

Notice 2005–70, 2005–2 CB 694, was published on October 11, 2005, to provide interim guidance for making an election to apply section 362(e)(2)(C). See § 601.601(d)(2) of this chapter. Under Notice 2005–70, an election would be considered effective once a certification was included by the transferor or, if the transferor is a controlled foreign corporation (CFC), by all of its controlling U.S. shareholders as defined in § 1.964–1(c)(5), on a timely filed original Federal income tax return (designated a "U.S. return" under the final regulations) for the year of the transaction. Notice 2005–70 expressly permitted taxpayers to make a protective election that would have no effect on a transaction that is ultimately not subject to section 362(e)(2). The Notice also allowed other statements to be treated as effective elections if sufficient information was provided to the IRS with respect to the transfer and parties.

Proposed regulations under section 362(e)(2) were published in the **Federal Register** (71 FR 62067) on October 23, 2006. Following the publication of the proposed regulations, the IRS received questions concerning the application of section 362(e)(2) to transactions involving S corporations and partnerships and concerning the filing of the section 362(e)(2)(C) election, particularly with respect to transactions between persons outside the United States. The IRS also has become aware of certain ambiguities (described later in this preamble) relating to the proper operation of the statute. Two written comments were submitted; no public hearing was requested or held.

Summary of Proposed Regulations

1. General Application of Section, Interaction With Other Law

The proposed regulations included a number of specific provisions regarding the general operation of the statutory framework, such as provisions stating that section 362(e)(2) is to be applied on a transferor-by-transferor basis; that a transaction is treated as subject to section 362(e)(2) to the extent it is not a transfer of net built-in loss property under section 362(e)(1); that gain recognized by the transferor is taken into account in determining the transferee's basis immediately after the transfer; and that section 362(e)(2) applies to any transaction described in section 362(a) without regard to whether the transaction is also described in section 362(b) or any other section. These provisions responded to inquiries from practitioners concerning section 362(e)(2) and its interaction with generally applicable provisions of the Code.

2. Exceptions From the Application of Section 362(e)(2)

The proposed regulations included two exceptions under which a transaction would be treated as not subject to section 362(e)(2) notwithstanding that the transaction is generally described in that section.

Under the first exception, if a transfer is not relevant for Federal income tax purposes at the time it occurs and it does not become relevant for Federal income tax purposes at any time within two years of the transfer, then, solely for purposes of determining whether section 362(e)(2) applies to the transaction, the property exchanged would be deemed to have a basis equal to its fair market value (designated value under the final regulations) immediately after the transaction. As a result, the transfer would not be subject to section 362(e)(2). This exception reflected a concern that transferors not anticipating that a transfer would be relevant for

Federal income tax purposes would not be likely to undertake the valuation and record-keeping necessary to comply with the statute. However, if a transfer that was not relevant for Federal income tax purposes when it occurred became relevant for Federal income tax purposes at any time within two years of the transfer, the administrative burden of compliance would not be unreasonable, and, if a transaction was undertaken with a view to reducing or avoiding Federal income tax, the transferor must expect the transfer to be relevant for Federal income tax purposes. Because relief would be either unnecessary or inappropriate in either case, relief was not extended to those cases.

Under the second exception, a transaction would not be subject to section 362(e)(2) to the extent that the transferor distributes the stock received in the transaction and, in the distribution, no gain or loss was recognized and no person takes the stock or other property with a basis determined by reference to the transferor's basis in the distributed stock. This relief reflected a determination that, to the extent there is no duplicated loss that could be recognized by any taxpayer, section 362(e)(2) should not apply to the transaction.

3. Securities Received Without the Recognition of Gain or Loss

Section 362(e)(2) is silent with respect to securities received without the recognition of gain or loss in a transaction otherwise subject to section 362(e)(2). However, the IRS and Treasury Department determined that the statutory purpose of preventing loss duplication would be circumvented if section 362(e)(2) did not apply to securities issued in such cases. For example, if loss property is transferred in exchange for stock and securities and any part of the securities are retained following the distribution of the stock under section 355, loss would be duplicated and preserved in the retained securities. To prevent this circumvention of the statutory purpose, the proposed regulations defined the term "stock" to include both stock and securities for purposes of section 362(e)(2).

4. Liabilities

In general, as illustrated in *Example 5* in paragraph (d) of § 1.362–4 of the proposed regulations, liabilities assumed in the transaction do not affect the application of section 362(e)(2). However, the proposed regulations provided that, if a section 362(e)(2)(C) election is made, the reduction to stock basis is limited to the amount that the transferee would otherwise reduce its basis in the transferred assets. This was intended to prevent the reduction of stock basis attributable to contingent liabilities associated with a trade or business, for which basis is specifically preserved under section 358(h)(2)(A).

5. The Section 362(e)(2)(C) Election

The proposed regulations adopted the general approach of Notice 2005–70, treating an election as effective if the transferor files a certification (designated the "election statement" in the proposed regulations) on its U.S. return for the year of the transfer or, if the transferor is a CFC, if the controlling U.S. shareholders all file the election statement on or with their U.S. returns. The proposed regulations also adopted the rule allowing a protective election.

In addition, the proposed regulations substantially expanded the guidance provided in Notice 2005–70. The proposed regulations added an express requirement that the transferor and the transferee execute a written, binding agreement. The proposed regulations also included guidance on the filing of an election statement in circumstances not addressed in the Notice (for example, if the transferor was not required to file a U.S. return and was not a CFC) and provided that the statement must be filed in accordance with the regulations in order for the section 362(e)(2)(C) election to be effective.

In addition, the proposed regulations provided that the basis tracing provisions in § 1.358–2 would not apply to transactions in which a section 362(e)(2)(C) election is made. Thus, if A transferred multiple shares of X stock to Y in a transaction subject to section 362(e)(2), the Y shares received in the transaction would each be allocated an equal portion of A's aggregate basis in the X shares transferred, without regard to A's bases in the individual shares of X stock surrendered. As a result, there would be no disparity among A's bases in its Y shares following a section 362(e)(2)(C) election. This rule was intended to prevent a preservation of loss that would be contrary to the objective of section 362(e)(2).

6. Partnerships and S Corporations

The proposed regulations confirmed that any reduction under section 362(e)(2)(C) to the basis in stock received by a partnership or S corporation in a transaction subject to section 362(e)(2) is an expenditure or expense of the transferor partnership or S corporation. As a result, the section 362(e)(2)(C) stock basis reduction would cause a reduction to the basis of the partner in its interest in the partnership or the S corporation shareholder's basis in its stock of the S corporation.

Summary of Comments and Guidance

In general, the commenters concurred with the positions taken in the proposed regulations, but requested that the overall operation of the statute be clarified. For example, since the issuance of the proposed regulations, the IRS has become aware of certain questions relating to the allocation of net built-in loss where gain is recognized and multiple properties are transferred in the transaction. In addition, practitioners requested further guidance on the application of section 362(e)(2) to transactions that are also subject to section 362(e)(1), to transactions involving partnerships and S corporations, and to transactions between persons not connected with the United States, particularly with regard to the making of the section 362(e)(2)(C) election.

Accordingly, these final regulations generally adopt the substantive rules of the proposed regulations. In addition, the final regulations revise the structure of the proposed rules to clarify the application of section 362(e)(2) and to provide a framework that will better coordinate with the provisions of section 362(e)(1) and the regulations that are to be promulgated under that section. These are not substantive changes from the proposed regulations but are solely intended to simplify the application of section 362(e)(2). The material changes and additions to the proposed regulations are as follows:

1. Clarification of Overall Application of Section 362(e)(2)

The final regulations adopt a general operative rule and related definitions to facilitate the identification of transactions that are subject to section 362(e)(2) and to then determine the tax treatment required by this section. This approach responds to comments requesting more clarity on the general operation of the provision.

The general operative rule set forth in the final regulations is that whenever a person (Transferor) transfers property to a corporation (Acquiring) in a loss duplication transaction, Acquiring's basis in each loss duplication property (as determined without regard to section 362(e)(2)) is reduced by the property's allocable portion of Transferor's net built-in loss.

The final regulations define the term "loss duplication transaction" as any section 362(a) transfer in which

Acquiring's aggregate basis in the property transferred by Transferor would exceed the aggregate value of such property immediately after the transaction. The term "loss duplication property" refers to individual property transferred in the loss duplication transaction that Acquiring would take with a basis that would exceed value immediately after the transfer. Finally, the term "Transferor's net built-in loss" is defined as the excess of Acquiring's aggregate basis in property received from Transferor over the aggregate value of such property immediately after the transaction. For purposes of applying each of these definitions, Acquiring's basis in property is determined immediately after the transfer, disregarding section 362(e)(2) but taking into account all other applicable rules, including section 362(e)(1).

The final regulations thus incorporate in the operative rules and definitions the transferor-by-transferor approach and other general provisions that reflect the statutory construct as implemented by the proposed regulations, including that a transfer can be subject to both section 362(e)(1) and section 362(e)(2) and the priority given to section 362(e)(1) in such cases. These principles are further illustrated in the examples.

2. Additional Definitions

Several questions were raised concerning whether certain persons were required to file a U.S. return within the meaning of the regulations. To address these concerns, the final regulations define the term "U.S. return" as a return of income that must be filed under section 6012 or an information return that must be filed under Subtitle F, Chapter 61, Subchapter A, Part III of the Code (sections 6031 and following). The final regulations further provide that the requirement to file the return must be unconditional. Thus, the term does not include forms that are merely elective to receive a particular tax treatment, such as statements filed to make an election or to reduce or avoid withholding by a person not otherwise required to file a U.S. return. These changes are intended to eliminate uncertainty as to whether a person has a filing requirement for purposes of determining whether a transaction qualifies for relief as a transaction outside the United States. The final regulations also clarify the time for filing and the person that must file a statement that the Transferor and Acquiring are making an election under section 362(e)(2)(G) (designated as a "Section 362(e)(2)(C) Statement" under the final regulations). The Section 362(e)(2)(C) Statement is described more fully later in this preamble.

The final regulations modify the definition of the term "controlling U.S. shareholder." Under the final regulations, only persons owning a direct interest in the CFC or an interest treated as owned by reason of an interest in a partnership, estate, trust, or corporation are treated as controlling U.S. shareholders. This change reflects a concern that, for this purpose, a rule treating persons as controlling U.S. shareholders solely by reason of the family attribution rules presents undue administrability concerns and can cause inappropriate results in certain cases.

3. Exception for Transactions Outside the U.S. Tax System

The IRS and Treasury Department continue to believe that administrative relief is appropriate when the parties to the transfer do not expect the transfer to be relevant for Federal tax purposes, and in fact the transfer does not become relevant for Federal tax purposes within two years of the transfer. Accordingly, the final regulations retain the rule in the proposed regulations excepting transactions wholly outside the U.S. tax system. However, the final regulations conform the formulation of the rule to the formulation of the exception for transactions in which duplicated loss is eliminated. That is, the rule in the final regulations does not presume that basis and value are equal (with the result that no loss is transferred and so section 362(e)(2) does not apply), as in the proposed regulations, but instead provides simply that section 362(e)(2) will not apply to a qualifying transaction. Like the proposed regulations, the final regulations provide that a transaction will qualify for this exception only if the transaction is between persons not connected to the United States, the transaction does not become relevant for Federal tax purposes within two years of the transfer, and the transaction is not undertaken pursuant to a plan to reduce or avoid Federal taxes.

4. Controlled Foreign Partnerships (CFPs)

The IRS and Treasury Department have determined that, for purposes of the administrative relief granted for transactions outside the United States, as well as for purposes of determining the person that must file a Section 362(e)(2)(C) Statement, CFPs should be treated in the same manner as CFCs. First, the reason that CFCs are ineligible for relief is that a CFC could not reasonably expect a transfer to have no relevance for Federal income tax purposes, and so the administrative relief is not warranted. The same is true with respect to CFPs. Second, with respect to the filing of a Section 362(e)(2)(C) Statement, although a CFP may not be required to file a U.S. return, the reporting U.S. partners of a CFP have a relationship to the CFP, and a filing obligation with respect to the CFP's activities, that is materially the same as that of the controlling U.S. shareholders of a CFC. Thus, the reporting U.S. partners of a CFP have the same reporting requirements under these final regulations as the controlling U.S. shareholders of a CFC. For purposes of these final regulations, a partnership is a CFP if it is treated as such for purposes of section 6038; a CFP's reporting U.S. partners are generally those persons that would be required to file an information return with respect to the CFP under section 6038.

5. Liabilities

The final regulations retain the approach in the proposed regulations that generally disregards liability assumptions. *Example 5* in paragraph (d) of the proposed regulations § 1.362–4 is expanded, however, to illustrate more fully the application of section 362(e)(2) to transactions in which fixed and contingent liabilities are assumed. See *Example 5* in paragraph (h) of the final regulations § 1.362–4.

However, in both written comments and informal inquiries, practitioners have raised concerns about the effect of this rule when the property transferred is an interest in a partnership with liabilities. In particular, practitioners are concerned because partnership liabilities increase each partner's basis in its partnership interest but do not give rise to a corresponding increase in the value of those interests. The result can be the appearance of a built-in loss.

To address this problem, the final regulations generally adopt the approach proposed by commentators, specifically, by modifying the definition of the term "value" (generally, fair market value) to take liabilities into account when determining whether a partnership interest is a loss asset. However, because there can be differences between Transferor's share of partnership liabilities and Acquiring's share of partnership liabilities, the final regulations provide that the value of a partnership interest is the sum of cash that Acquiring would receive for such interest, increased by any § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) of the partnership that are allocated to Acquiring with regard to such transferred interest under section

752. The final regulations include an example that illustrates the application and effect of this rule. See *Example 8(ii)* in paragraph (h) of the final regulations § 1.362–4. The final regulations also clarify that any section 743(b) adjustment to be made as a result of the transaction is made after any section 362(e) basis adjustment.

6. Elections Under Section 362(e)(2)(C)

Since the enactment of section 362(e)(2), the questions most frequently asked of the IRS concern the making of the section 362(e)(2)(C) election, notwithstanding the publication of Notice 2005–70 and the proposed regulations. Accordingly, the final regulations not only generally adopt the rules set forth in Notice 2005–70 and in the proposed regulations, but they also expand those rules significantly to address the questions raised.

a. Section 362(e)(2)(C) Statement

To begin, the final regulations retain the fundamental structure of the proposed regulations. Thus, under the final regulations, a written, binding agreement to make a section 362(e)(2)(C) election must be executed by Transferor and Acquiring, and a Section 362(e)(2)(C) Statement must be filed in accordance with the regulations. A section 362(e)(2)(C) election is effective only if both conditions are met. The final regulations do not prescribe a particular form for the agreement to make the section 362(e)(2)(C) election; however, the final regulations do require the written, binding agreement to be in effect prior to the time a Section 362(e)(2)(C) Statement is filed.

The final regulations generally adopt the structure of the proposed regulations regarding the time and manner of filing of the Section 362(e)(2)(C) Statement. Thus, under the final regulations, the statement is filed by Transferor (if Transferor is otherwise required to file a U.S. return for the year of the transaction) or by all of Transferor's controlling U.S. shareholders or reporting U.S. partners (if Transferor is a CFC or CFP at the time of the transaction and is not otherwise required to file a U.S. return). Further, if Transferor is not otherwise required to file a U.S. return and is not a CFC or CFP, then the statement is filed by Acquiring (if Acquiring is otherwise required to file a U.S. return in the year of the transaction) or by all of Acquiring's controlling U.S. shareholders (if Acquiring is a CFC at the time of the transaction and is not otherwise required to file a U.S. return).

Unlike the proposed regulations, the final regulations do not require or permit the filing of the Section 362(e)(2)(C) Statement by a U.S. person (as defined in section 7701(a)(30)) that is not otherwise required to file a U.S. return. This change was made because these regulations do not create an independent filing requirement, and not all U.S. persons would otherwise be required to file a U.S. return.

b. Neither Party Able To File a Section 362(e)(2)(C) Statement

Like the proposed regulations, the final regulations provide rules regarding the filing of a Section 362(e)(2)(C) Statement if neither Transferor, Acquiring, nor any of their shareholders would be required to file the statement at the time of the transaction but at some later time either Transferor or Acquiring becomes a person required to file a U.S. return or a CFC, or the stock or loss duplication property is acquired by such a person or a CFC in a transferred basis transaction. For this purpose, the final regulations expand the proposed rule to treat CFPs in the same manner as CFCs.

The final regulations expand the proposed rules in two respects. First, the final regulations provide that, if a person holds property received in a transaction with a basis determined directly or indirectly by reference to the basis of loss duplication property or stock received in a loss duplication transaction, the filing requirements will treat such person as Transferor or Acquiring (as applicable) for purposes of determining who must file a Section 362(e)(2)(C) Statement and when.

Second, the final regulations provide that a Section 362(e)(2)(C) Statement must be filed with a U.S. return (or U.S. returns) for the first taxable year in which property with a basis determined by reference to the basis of loss duplication property or stock received in a loss duplication transaction is acquired by a person required to file a U.S. return, a CFC, or a CFP. If, in the same taxable year, more than one person has an event that causes such basis to become relevant for U.S. tax purposes, the Section 362(e)(2)(C) Statement must be filed by all such persons with their U.S. return for that first year.

These two changes were determined necessary to prevent transactions from qualifying for the two-year exception for transactions outside the U.S. tax system if the basis of property exchanged in a transaction becomes relevant for U.S. tax purposes within two years of the transaction, as it would not be unduly burdensome to require the valuation necessary to comply with section 362(e)(2) in such a case.

These rules are expected to have limited application, inasmuch as they will generally only apply if, within two years of the transaction, a party to the transaction becomes a person required to file a U.S. return, a CFC, or a CFP, or such a person acquires the loss duplication property or stock received in a loss duplication transaction in a transferred basis transaction. These rules will also apply in the limited situations in which Transferor is a U.S. person not otherwise required to file a U.S. return and Acquiring is neither required to file a U.S. return, a CFC, nor a CFP (such a case would not qualify for the two-year exception for transactions outside the U.S. tax system because a U.S. person is a party to the transaction).

7. Transactions Involving Partnerships and S Corporations

Like the proposed regulations, the final regulations expressly confirm that any reduction to a transferor's basis in Acquiring stock by reason of a section 362(e)(2)(C) election is an expenditure or expense under section 705(a)(2)(B) (if Transferor is a partnership) and under section 1367(a)(2)(D) (if Transferor is an S corporation). However, in response to questions raised with regard to the proposed regulations, the final regulations provide further guidance on the interaction between section 362(e)(2) and both subchapter K and subchapter S. Specifically, the final regulations clarify that no stock basis reduction is required under section 1367(a)(2)(D) by reason of a reduction to the S corporation's basis in acquired assets if a section 362(e)(2)(C) election is not made. In addition, the final regulations include examples illustrating the consequences of transfers to and by S corporations, as well as transfers by partnerships. For example, practitioners raised concerns that S corporation shareholders electing to reduce the basis of their S corporation stock under section 362(e)(2)(C) may inadvertently eliminate their loss completely when the transferred asset is sold. The IRS and Treasury Department recognize that the elimination of any tax benefit from the economic loss can result in such cases and, to alert taxpayers to the potential elimination of loss, the final regulations include an example to illustrate the application of section 362(e)(2) to transfers made both with and without the election under section 362(e)(2)(C). See *Example 9* in paragraph (h) of the final regulations § 1.362–4.

8. Examples

The final regulations include revised and expanded examples based on those in the proposed regulations. For example, in response to questions about the scope of the application of section 362(e)(2) to reorganizations, the final regulations include not only examples from the proposed regulations illustrating the application of section 362(e)(2) to transactions qualifying as both section 351 transactions and reorganizations, they also include an example illustrating the nonapplicability of section 362(e)(2) to triangular reorganizations that do not include a transfer to which section 362(a) applies.

9. Other Requests for Comments in the Proposed Regulations

Although the preamble to the proposed regulations invited comments concerning whether special rules were needed to address the interaction of section 362(e)(2) and section 336(d) when a section 362(e)(2)(C) election is made, and whether the regulations should deem a section 362(e)(2)(C) election in the case of a section 304 transaction, no comments were received regarding these issues. Accordingly, no special rules addressing these issues are included in the final regulations.

10. Effective/Applicability Date

These final regulations generally adopt the proposed effective date and thus are applicable to transactions occurring after September 3, 2013. However, the final regulations modify the proposed effective date to provide that the final regulations do not apply to transactions after September 3, 2013, that were effected pursuant to a binding agreement that was in effect prior to September 3, 2013, and at all times thereafter. In addition, the final regulations provide that taxpayers may apply these rules to any transaction occurring after October 22, 2004.

11. Revision of § 602.101, Table of OMB Control Numbers

This Treasury Decision revises § 602.101 of this chapter (OMB Control Numbers under Paperwork Reduction Act) to include the OMB control number 1545–2247 issued with respect to the collection of information in this Treasury Decision, as well as OMB control number 1545–2125 issued with respect to the collections of information in §§ 1.336–2 and 1.336–4 (TD 9619, 78 FR 28467) May 15, 2013.

Effect on Other Documents

The following publication is obsolete as of September 3, 2013: Notice 2005–70 (2005–2 CB 694).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. Further, it is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information in these regulations merely provides a mechanism whereby, once a transferor and transferee have agreed that it would be advantageous to elect the special basis treatment afforded under section 362(e)(2)(C), the transferor (or in limited cases the transferee) can report the existence of the agreement, and minimal identifying information regarding the transaction and the parties, on its return in order to make the election effective. The minimal identifying information should be readily available to the parties and the professional skills that would be necessary to make the election would be the same as those required to prepare a return for the small business. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these final regulations, as well as the proposed regulations preceding these final regulations, were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Jean R. Broderick of the Office of Associate Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry for § 1.362–4 to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.362–4 also issued under 26 U.S.C. 362(e)(2)(C)(ii). * * *

■ **Par. 2.** Section 1.358–2 is amended by revising paragraph (a)(2)(viii) and adding a new sentence at the end of paragraph (d) to read as follows:

§ 1.358–2 Allocation of basis among nonrecognition property.

(a) * * *

(2) * * *

(viii) This paragraph (a)(2) shall not apply to determine the basis of a share of stock or security received by a shareholder or security holder in an exchange described in both section 351 and either section 354 or 356, if, in connection with the exchange—

(A) The shareholder or security holder exchanges property for stock or securities in an exchange to which neither section 354 nor section 356 applies;

(B) The shareholder or security holder exchanges property for stock or securities in a transaction for which an election to apply section 362(e)(2)(C) is in effect; or

(C) Liabilities of the shareholder or security holder are assumed.

* * * * *

(d) *Effective/applicability date.* * * * However, paragraph (a)(2)(viii) of this section applies only to exchanges and distributions of stock occurring on or after September 3, 2013; taxpayers may also apply paragraph (a)(2)(viii) of this section to transactions occurring after October 22, 2004.

■ **Par. 3.** Section 1.362–4 is amended by revising the section heading and paragraph (a)(1), and adding paragraphs (b) through (j) to read as follows:

§ 1.362–4 Basis of loss duplication property.

(a) *Purpose and scope*—(1) *In general.* The purpose of section 362(e)(2) and this section is to prevent the duplication of net loss in transfers to which section 351 applies, capital contributions, and paid-in surplus (each, a section 362(a) transaction). See paragraph (g) of this section for definitions of terms used in this section.

(2) * * *

(b) *Basis determinations under section 362(e)(2) and this section.*

Notwithstanding section 362(a), if a corporation (Acquiring) receives loss duplication property (as defined in paragraph (g)(1) of this section) from a person (Transferor) in a loss duplication transaction (as defined in paragraph (g)(2) of this section), Acquiring's basis in such property is equal to the basis of the property determined without regard to section 362(e)(2) and this section (as described in paragraph (g)(1)(ii) of this section), reduced by the property's allocable portion of Transferor's net built-in loss (as defined in paragraph (g)(3) of this section). If more than one Transferor transfers property to a corporation in a section 362(a) transaction, whether and the extent to which section 362(e)(2) and this section apply is determined separately for each Transferor.

(c) *Exceptions*—(1) *Transactions in which net built-in loss is eliminated without recognition.* Section 362(e)(2) does not apply to a transaction to the extent that—

(i) Without recognizing gain or loss, Transferor distributes the Acquiring stock received in the transaction; and

(ii) Upon completion of the transaction, no person holds Acquiring stock or any other asset with a basis determined, in whole or in part, by reference to Transferor's basis in the distributed Acquiring stock.

(2) *Certain transactions outside of the United States.* Section 362(e)(2) does not apply to a transaction if—

(i) Neither Transferor nor Acquiring is a U.S. person (as defined in section 7701(a)(30)), a person otherwise required to file a U.S. return for the year of the transaction, a controlled foreign corporation (CFC, as defined in paragraph (g)(7) of this section), or a controlled foreign partnership (CFP, as defined in paragraph (g)(9) of this section) on the date of the transaction;

(ii) The transfer occurs more than two years prior to the date of any event described in paragraph (d)(3)(ii)(E), (F), or (G) of this section; and

(iii) The original transaction and the event or events described in paragraph (d)(3)(ii)(E), (F), or (G) of this section were not entered into with a view to reducing or avoiding the Federal income tax liability of any person by avoiding the application of section 362(e)(2) and this section to the original transaction.

(d) *Election to reduce Transferor's stock basis instead of Acquiring's asset basis*—(1) *In general.* In lieu of making the basis reductions otherwise required under paragraph (b) of this section, Transferor and Acquiring may elect to reduce Transferor's basis in Acquiring stock that is received in the transaction without the recognition of gain or loss (the section 362(e)(2)(C) election). The section 362(e)(2)(C) election may be made protectively and will have no effect to the extent that property transferred in the transaction is determined not to be subject to section 362(e)(2) and this section. However, the election is irrevocable once it is made. A section 362(e)(2)(C) election is made and effective if—

(i) Prior to the filing of a Section 362(e)(2)(C) Statement (described in paragraph (d)(3)(i) of this section), Transferor and Acquiring enter into a written, binding agreement to elect to apply section 362(e)(2)(C); and

(ii) The Section 362(e)(2)(C) Statement is filed in accordance with the provisions of paragraph (d)(3) of this section.

(2) *Effect of section 362(e)(2)(C) election.* If a section 362(e)(2)(C) election is made and in effect—

(i) An amount equal to the portion of Transferor's net built-in loss (as defined in paragraph (g)(3) of this section) that would otherwise be applied to reduce asset basis under paragraph (b) of this section is allocated among the Acquiring shares received or deemed received in the exchange (in proportion to the value of such shares) and applied to reduce Transferor's basis (determined without regard to section 362(e)(2) and this section) in each such share; and

(ii) Acquiring's basis in loss duplication property received from Transferor in the transaction is not determined under section 362(e)(2) and this section.

(3) *Section 362(e)(2)(C) Statement*—(i) *Form and contents of statement.* The Section 362(e)(2)(C) Statement is to be titled "Section 362(e)(2)(C) Statement." The Section 362(e)(2)(C) Statement must—

(A) Identify (by name and tax identification number, if any) Transferor and Acquiring;

(B) State that Transferor and Acquiring have entered into a written, binding agreement to elect to apply section 362(e)(2)(C) as required in paragraph (d)(1)(i) of this section; and

(C) State the date of the transaction (or, if the transaction includes transfers on more than one date, then the dates of all transfers) to which the election applies.

(ii) *Filing the Section 362(e)(2)(C) Statement.* In general, the Section 362(e)(2)(C) Statement is filed by the person or entity described in the applicable paragraph of this paragraph (d)(3)(ii). Thus, if Transferor is a partnership, S corporation, trust (including a subpart E trust), or other pass-through entity, or Acquiring is an S corporation, the entity (and not the partners, shareholders, or other persons having an interest in the entity or its property) is the person that must file the Section 362(e)(2)(C) Statement, without regard to whether such entity is foreign or domestic. However, in the case of a CFC or CFP, the controlling U.S. shareholders of the CFC or the reporting U.S. partners of the CFP, respectively, file the Section 362(e)(2)(C) Statement.

(A) *Transferor is a person required to file a U.S. return.* If Transferor is a person required to file a U.S. return for the year of the transfer, Transferor must include the Section 362(e)(2)(C) Statement on or with its timely filed (including extensions) original U.S. return for the taxable year in which the transfer occurred.

(B) *Transferor is a CFC or CFP and not required to file a U.S. return.* If paragraph (d)(3)(ii)(A) of this section does not apply and Transferor is either a CFC or a CFP on the date of the transfer, all of Transferor's controlling U.S. shareholders (in the case of a CFC) or all of Transferor's reporting U.S. partners (in the case of a CFP) must include the Section 362(e)(2)(C) Statement on or with their timely filed (including extensions) original U.S. returns for their taxable years in which the transfer occurred.

(C) *Transferor is not a person required to file a U.S. return, a CFC, or a CFP, but Acquiring is required to file U.S. return.* If paragraphs (d)(3)(ii)(A) and (B) of this section do not apply and Acquiring is a person required to file a U.S. return for the year of the transfer, Acquiring must include the Section 362(e)(2)(C) Statement on or with its timely filed (including extensions) original U.S. return for the taxable year in which the transfer occurred.

(D) *Transferor is not a person required to file a U.S. return, a CFC, or a CFP, Acquiring is not required to file a U.S. return, but Acquiring is a CFC.* If paragraphs (d)(3)(ii)(A) through (C) of this section do not apply and Acquiring is a CFC on the date of the transfer, all of Acquiring's controlling U.S. shareholders must include the Section 362(e)(2)(C) Statement on or with their timely filed (including extensions) original U.S. returns for their taxable years in which the transfer occurred.

(E) *Neither Transferor nor Acquiring is a person required to file a U.S. return, a CFC, or a CFP, but Transferor later becomes a person required to file a U.S. return, a CFC, or a CFP.* If paragraphs (d)(3)(ii)(A) through (D) of this section do not apply and Transferor becomes a person required to file a U.S. return, a CFC, or a CFP, Transferor (if required to file a U.S. return), all of Transferor's controlling U.S. shareholders (if

Transferor becomes a CFC not otherwise required to file a U.S. return), or all of Transferor's reporting U.S. partners (if Transferor becomes a CFP not otherwise required to file a U.S. return) must include the Section 362(e)(2)(C) Statement on or with their timely filed (including extensions) original U.S. returns for their taxable years in which an event described in this paragraph (d)(3)(ii)(E) first occurs. For purposes of this paragraph (d)(3)(ii)(E), the term Transferor includes any person holding property with a basis determined directly or indirectly by reference to Transferor's basis in the Acquiring stock received in the transaction.

(F) *Transferor is not and does not become a person required to file a U.S. return, a CFC, or a CFP, Acquiring is not, but later becomes either a person required to file a U.S. return, a CFC, or a CFP.* If paragraphs (d)(3)(ii)(A) through (E) of this section do not apply and Acquiring becomes a person required to file a U.S. return, a CFC, or a CFP, Acquiring (if required to file a U.S. return), all of Acquiring's controlling U.S. shareholders (if Acquiring becomes a CFC not otherwise required to file a U.S. return), or all of Acquiring's reporting U.S. partners (if Acquiring becomes a CFP not otherwise required to file a U.S. return) must include the Section 362(e)(2)(C) Statement on or with their timely filed (including extensions) original U.S. returns for their taxable years in which an event described in this paragraph (d)(3)(ii)(F) first occurs. For purposes of this paragraph (d)(3)(ii)(F), the term Acquiring includes any person holding property with a basis determined directly or indirectly by reference to Acquiring's basis in loss duplication property received in the transaction.

(G) *Transferor and Acquiring are not and do not become a person required to file a U.S. return, a CFC, or a CFP, but the basis of the loss duplication property or Acquiring stock later becomes relevant for Federal tax purposes.* If paragraphs (d)(3)(ii)(A) through (F) of this section do not apply and, in a transferred basis transaction, a person required to file a U.S. return, a CFC, or a CFP acquires either loss duplication property or Acquiring stock that was received in the loss duplication transaction, or any property the basis of which is determined in whole or in part by reference to any such property or stock, all such persons (or, in the case of a CFC or CFP not required to file a U.S. return, all the controlling U.S. shareholders or all the reporting U.S. partners, as applicable) must include the Section 362(e)(2)(C) Statement on or with their timely filed (including extensions) original U.S. returns for their first taxable year(s) in which there occurs an event or events described in this paragraph (d)(3)(ii)(G).

(e) *Transfers by partnerships and S corporations*—(1) *Transfers by partnerships.* If a partnership transfers property in a loss duplication transaction with respect to which a section 362(e)(2)(C) election is made, the resulting reduction to the partnership's basis in the Acquiring stock received in exchange for the loss duplication property is treated as an expenditure of the partnership described in section 705(a)(2)(B).

(2) *Transfers by S corporations.* If an S corporation transfers property in a loss duplication transaction with respect to which a section 362(e)(2)(C) election is made, the resulting reduction to the S corporation's basis in the Acquiring stock received in exchange for the loss duplication property is treated as an expense of the S corporation described in section 1367(a)(2)(D).

(f) *Transfers to S corporations.* If a person transfers property to an S corporation in a loss duplication transaction, any resulting reduction under section 362(e)(2) and this section to the S corporation's basis in the property received is not treated as an expense of the S corporation described in section 1367(a)(2)(D).

(g) *Definitions.* For purposes of section 362(e)(2) and this section—

(1) *Loss duplication property* is any property—

(i) That is transferred by Transferor to Acquiring in a loss duplication transaction (as defined in paragraph (g)(2) of this section); and

(ii) That Acquiring would take with a basis in excess of value immediately after the transaction; for this purpose, the basis Acquiring would take in the property is determined immediately after the transaction and without regard to section 362(e)(2) and this section, but otherwise taking into account all applicable provisions of law, including, without limitation, section 362(e)(1).

(2) A *loss duplication transaction* is a section 362(a) transaction in which Acquiring's aggregate basis in the property received from Transferor would, but for section 362(e)(2) and this section, exceed the aggregate value of such property immediately after the transaction. For this purpose—

(i) A transaction is a section 362(a) transaction if it is described in section 362(a) without regard to whether it is also described in any other provision of the Internal Revenue Code (Code), including, without limitation, section 362(b); and

(ii) Acquiring's aggregate basis in the property received from Transferor is determined immediately after the transaction and without regard to section 362(e)(2) and this section, but otherwise taking into account all applicable provisions of law, including, without limitation, section 362(e)(1).

(3) *Transferor's net built-in loss* is the excess of—

(i) Acquiring's aggregate basis (determined under paragraph (g)(2)(ii) of this section) in all property received from Transferor in a loss duplication transaction, over

(ii) The aggregate value of such property immediately after the transaction.

(4) A property's *built-in loss* is the excess of Acquiring's basis in the property (determined as described in paragraph (g)(1)(ii) of this section) over the property's value (determined immediately after the transaction).

(5) A property's *allocable portion of Transferor's net built-in loss* is the portion of Transferor's net built-in loss that bears the same ratio to Transferor's net built-in loss that the property's built-in loss bears to the aggregate built-in losses reflected in the bases of loss duplication property transferred by Transferor in the transaction.

(6) A *U.S. return* is a return of income under section 6012 or an information return under Subtitle F, Chapter 61, Subchapter A, Part III of the Code (sections 6031 and following) or the regulations thereunder, that the taxpayer is unconditionally required to file. Thus, the term does not include elective forms or statements that are required to be filed only to obtain a particular tax treatment, including forms filed to make an election or to reduce or avoid withholding by a person not otherwise required to file a U.S. return (as described in this paragraph (g)(6)) (for example, a notice of nonrecognition under § 1.1445–2(d)).

(7) A *controlled foreign corporation* (CFC) is any corporation described in section 957 or section 953(c).

(8) A *controlling U.S. shareholder* is any person that is treated as a controlling U.S. shareholder under § 1.964–1(c)(5) because such person either owns a direct interest in the CFC or is treated as owning an interest in the CFC by reason of section 318(a)(2) (attribution from partnerships, estates, trusts, and corporations).

(9) A *controlled foreign partnership* (CFP) is any partnership treated as a controlled foreign partnership for purposes of section 6038.

(10) A *reporting U.S. partner* is any partner of a CFP that is required to file an information return with respect to

the CFP pursuant to section 6038 or the regulations thereunder, without regard to § 1.6038–3(c) or (j). In addition, in applying the constructive ownership rules of § 1.6038–3(b)(4), the term "nonresident alien" is replaced by the term "individual."

(11) The term *stock* means both Acquiring stock and Acquiring securities received by Transferor in the transaction if gain or loss on the receipt of the stock or securities is not recognized in whole or in part.

(12) *Value*—(i) *General rule.* The term *value* means fair market value.

(ii) *Special rule for transfers of partnership interests.* Notwithstanding the general rule in paragraph (g)(12)(i) of this section, when referring to a partnership interest, for purposes of section 362(e)(2) and this section, the term *value* means the sum of the cash that Acquiring would receive for the interest, assuming an exchange between a willing buyer and a willing seller (neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts), increased by any § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) of the partnership allocated to Acquiring with regard to such transferred interest under section 752 immediately after the transfer to Acquiring. See § 1.743–1 regarding the application of section 743(b) following a section 362(e) basis reduction.

(h) *Examples.* The examples in this paragraph (h) illustrate the application of section 362(e)(2) and this section. For purposes of these examples, X, Y, P, S, S1, S2, and DC are domestic corporations; A and B are U.S. individuals; FC1 and FC2 are foreign corporations and, unless otherwise indicated, are not required to file a U.S. return and are not CFCs; and PRS is a domestic partnership. Unless the facts indicate otherwise, all persons and transactions are unrelated; Acquiring's basis in the transferred property is not determined under section 362(e)(1); the property transferred is not described in section 362(e)(1)(B); no election is made under section 362(e)(2)(C), and the transactions are not subject to recharacterization.

Example 1. Transfer described in section 351—(i) *Basic application of section.* (A) *Facts.* A owns Asset 1 (basis $90, value $60) and Asset 2 (basis $110, value $120). In a transaction to which section 351 applies, A transfers Asset 1 and Asset 2 to X in exchange for a single outstanding share of X stock representing all the outstanding X stock immediately after the transaction.

(B) *Analysis*—(*1*) *Loss duplication transaction.* A's transfer of Asset 1 and Asset 2 is a section 362(a) transaction. But for section 362(e)(2) and this section, X's aggregate basis in those assets would be $200 ($90 + $110), which would exceed the aggregate value of the assets $180 ($60 + $120) immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and A has a net built-in loss of $20 ($200 − $180).

(*2*) *Identifying loss duplication property.* But for section 362(e)(2) and this section, X's basis in Asset 1 would be $90, which would exceed Asset 1's $60 value immediately after the transaction. Accordingly, Asset 1 is loss duplication property. But for section 362(e)(2) and this section, X's basis in Asset 2 would be $110, which would not exceed Asset 2's $120 value immediately after the transaction. Accordingly, Asset 2 is not loss duplication property.

(C) *Basis in loss duplication property.* X's basis in Asset 1 is $70, computed as its $90 basis under section 362(a) reduced by A's $20 net built-in loss.

(D) *Basis in other property.* Under section 362(a), X has a transferred basis of $110 in Asset 2. Under section 358(a), A has an exchanged basis of $200 in the X stock it receives in the transaction.

(ii) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A) of this *Example 1*, except that A and X make an election under section 362(e)(2)(C). Under paragraph (d)(2)(i) of this section, A reduces its basis in the X stock, as determined without regard to section 362(e)(2) and this section, by the amount of A's net built-in loss that would have been applied to reduce X's basis in Asset 1 had the section 362(e)(2)(C) election not been made. In addition, no reduction is made to X's basis in Asset 1, as determined without regard to section 362(e)(2) and this section. As a result, A's basis in the X stock is $180 ($200 − $20), X's basis in Asset 1 is $90, and X's basis in Asset 2 is $110.

Example 2. Transfer described in both section 351 and section 368(a)(1)(B)—(i) *Basic application of section*—(A) *Facts.* P owns the sole outstanding share of S1 stock and the ten outstanding shares of S2 stock. In a transaction to which section 351 applies and that is described in section 368(a)(1)(B), P transfers its ten S2 shares to S1 in exchange for an additional ten shares of S1 voting stock. At the time of the transfer, P has a basis of $10 each in five of its S2 shares (Shares 1–5) and a basis of $5 each in its other five S2 shares (Shares 6–10), and the value of each share is $7.

(B) *Analysis*—(*1*) *Loss duplication transaction.* P's transfer of the S2 shares is a section 362(a) transaction notwithstanding that it is also a transaction described in section 368(a)(1)(B) and therefore section 362(b). But for section 362(e)(2) and this section, S1's aggregate basis in the S2 shares would be $75 ($10 × 5, or $50, for Shares 1–5 + $5 × 5, or $25, for Shares 6–10). Thus, S1's $75 aggregate basis in the shares would exceed the aggregate value of the shares, $70 ($7 × 10 shares), immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and P has a net built-in loss of $5 ($75 − $70).

(*2*) *Identifying loss duplication property.* But for section 362(e)(2) and this section, S1's basis in each of Shares 1–5 would be $10, which would exceed each share's $7 value immediately after the transaction. Accordingly, Shares 1–5 are each loss duplication property. But for section 362(e)(2) and this section, S1's basis in each of Shares 6–10 would be $5, which would not exceed each share's $7 value immediately after the transaction. Accordingly, Shares 6–10 are not loss duplication property.

(C) *Basis in loss duplication property.* S1's basis in each of Shares 1–5 is $9, computed as its $10 basis (determined without regard to section 362(e)(2) and this section) reduced by $1, the share's allocable portion (1/5) of P's net built-in loss ($5).

(D) *Basis in other property.* Under section 362(a), S1 has a transferred basis of $5 in each of Shares 6–10. Under section 358(a), P has an exchanged basis in the ten S1 shares it receives in the exchange ($10 in each of the five S1 shares received in exchange for Shares 1–5 and $5 in each of the five S1 shares received in exchange for Shares 5–10).

(ii) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A) of this *Example 2*, except that an election under section 362(e)(2)(C) is made to reduce P's basis in the shares of S1 stock received in the exchange. Under paragraph (d)(2)(i) of this section, P reduces its basis in the S1 stock by $5, the amount of P's net built-in loss that S1's basis in the S2 shares would have been reduced under section 362(e)(2) and this section had the section 362(e)(2)(C) election not been made, and no reduction is made to S1's basis in the S2 stock (as determined without regard to section 362(e)(2) and this section). Because an election is being made under section 362(e)(2)(C), P's basis in the new S1 shares is not determined under the general rule of § 1.358–2(a)(2)(i) (under which P's basis in each new S1 share would be equal to the basis of the S2 share transferred in exchange for the S1 share). Section 1.358–2(a)(2)(viii)(B). Accordingly, P's basis in each new S1 share will be $7, the share's allocable portion of P's $75 aggregate basis in the S2 shares transferred in the transaction (or, $7.50 per share), reduced under paragraph (d)(2)(i) of this section by the $5 that would have been applied to reduce S1's basis in the S2 shares had the section 362(e)(2)(C) election not been made (or $.50 per share). Under paragraph (d)(2)(ii) of this section and section 362(a), S1 receives five shares of the S2 stock with a basis of $10 each and five shares of the S2 stock with a basis of $5 each.

Example 3. Transfer described in both section 351 and section 368(a)(1)(A), multiple transferors, elimination of duplicated loss—(i) *Facts.* A owns Asset 1 (basis $120, value $130) and all the outstanding shares of X stock. B owns all the outstanding shares of Y stock (basis $150). Y owns Asset 2 (basis $250, value $210). Pursuant to a single plan, A transfers Asset 1 to X in exchange for additional X shares and, in a transaction qualifying as a reorganization described in section 368(a)(1)(A), Y merges with and into X. In the merger, B receives X stock with a basis equal to B's basis in its Y stock immediately before the merger. A's transfer of Asset 1 to X in exchange for X stock and Y's transfer of Asset 2 to X in the merger are both transactions to which section 351 applies. Notwithstanding

that the transfers by A and Y are pursuant to a single plan forming one transaction, section 362(e)(2) and this section apply to each transferor separately.

(ii) *Application of section to A's transfer of Asset 1.* A's transfer of Asset 1 is a section 362(a) transaction. But for section 362(e)(2) and this section, X's basis in Asset 1 would be $120, which would not exceed Asset 1's $130 value immediately after the transaction. Accordingly, A's transfer of Asset 1 is not a loss duplication transaction notwithstanding that, taking both A's transfer and Y's transfer into account, X has an aggregate net loss in Asset 1 and Asset 2. Because Asset 1 is not received in a loss duplication transaction, it is not loss duplication property and section 362(e)(2) and this section do not apply to A's transfer of Asset 1.

(iii) *Application of section to Y's transfer of Asset 2*—(A) *Analysis*—(*1*) *Loss duplication transaction.* Y's transfer of Asset 2 to X is a section 362(a) transaction, notwithstanding that it is also a transaction described in section 368(a)(1)(A) and therefore section 362(b). But for section 362(e)(2) and this section, X's basis in Asset 2 would be $250, which would exceed Asset 2's $210 value immediately after the transaction. Accordingly, Y's transfer is a loss duplication transaction and Y has a net built-in loss of $40.

(*2*) *Identifying loss duplication property.* But for section 362(e)(2) and this section, X's basis in Asset 2 would be $250, which would exceed Asset 2's $210 value immediately after the transaction. Accordingly, Asset 2 is loss duplication property.

(B) *Basis in loss duplication property.* Although Asset 2 is loss duplication property, section 362(e)(2) does not apply to Y's transfer of Asset 2 to X because Y distributes all of the X stock received in the exchange without recognizing gain or loss, and, upon completion of the transaction, no person will hold the X stock or any other asset with a basis determined in whole or in part by reference to Y's basis in such stock. Accordingly, under paragraph (c)(1) of this section, X's basis in Asset 2 is not determined under section 362(e)(2) and this section. Thus, under section 362(a), X's basis in Asset 2 is $250.

(iv) *Basis in other property.* Under section 358, A's basis in the X stock received in exchange for Asset 1 is $120 and B's basis in the X stock received in the merger is $150. Under section 362(a), X's basis in Asset 1 is $120.

Example 4. Transfer described in both section 351 and section 368(a)(1)(D), followed by a distribution qualifying under section 355—(i) *Basic transaction*—(A) *Facts.* A and B each own one of the two outstanding shares of X common stock. X's assets include Asset 1 (basis $120, value $70), Asset 2 (basis $160, value $110), and Asset 3 (basis $220, value $240). In a transaction to which section 351 applies and that is described in section 368(a)(1)(D), X transfers Asset 1, Asset 2, and Asset 3 to Y in exchange for all the Y stock; then, in a distribution that qualifies under section 355, X distributes all the Y stock received in the exchange to A in exchange for all of A's X stock. Under section 361(c)(1), X does not recognize gain or loss as a result of the distribution of all the Y stock.

(B) *Analysis*—(*1*) *Loss duplication transaction.* X's transfer of Asset 1, Asset 2, and Asset 3 is a section 362(a) transaction. But for section 362(e)(2) and this section, Y's aggregate basis in those assets would be $500 ($120 + $160 + $220). The aggregate value of the assets immediately after the transaction is $420 ($70 + $110 + $240). Thus, Y's aggregate basis in the assets would exceed the aggregate value of the assets immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and X has a net built-in loss of $80 ($500 − $420).

(*2*) *Identifying loss duplication property.* But for section 362(e)(2) and this section, Y's basis in Asset 1 would be $120, which would exceed Asset 1's $70 value immediately after the transaction. Accordingly, Asset 1 is loss duplication property. But for section 362(e)(2) and this section, Y's basis in Asset 2 would be $160, which would exceed Asset 2's $110 value immediately after the transaction. Accordingly, Asset 2 is also loss duplication property. But for section 362(e)(2) and this section, Y's basis in Asset 3 would be $220 and would therefore not exceed Asset 3's $240 value immediately after the transaction. Accordingly, Asset 3 is not loss duplication property.

(C) *Basis in loss duplication property.* Although Asset 1 and Asset 2 are each loss duplication property, X will distribute the Y stock received in exchange for Asset 1 and Asset 2 without recognition of gain or loss, and, upon completion of the transaction, no person will hold the Y stock received by X or any other asset with a basis determined in whole or in part by reference to X's basis in the Y stock received in the exchange. (A's basis in the Y stock will be determined by reference to his basis in his X stock.) Accordingly, under paragraph (c)(1) of this section, Y's bases in Asset 1 and Asset 2 are determined under section 362(a) and not under section 362(e)(2) and this section. Thus, Y's basis in Asset 1 is $120 and Y's basis in Asset 2 is $160.

(D) *Basis in other property.* Under section 358, A's basis in the Y stock received in exchange for his X stock is determined by reference to his basis in his X stock surrendered. Under section 362(a), Y's basis in Asset 3 is $220.

(ii) *Section 355(e)*—(A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 4*, except that, after the section 355 distribution, Y is acquired pursuant to a plan (within the meaning of § 1.355–7), resulting in the application of section 355(e) to the transactions.

(B) *Analysis.* Because section 361(c)(2), and not section 361(c)(1), will apply to X's distribution of Y stock, X will not qualify for nonrecognition treatment on the distribution of the Y stock. As a result, paragraph (c)(1) of this section does not apply to the transaction, and Y's bases in Asset 1 and Asset 2, the loss duplication property, are determined under section 362(e)(2) and this section. Asset 1 has a built-in loss of $50 ($120 − $70), and Asset 2 has a built-in loss of $50 ($160 − $110). Thus, Asset 1's allocable portion of X's net built-in loss is $40 ($50/$100 × $80), and Asset 2's allocable portion of X's net built-in loss is $40 ($50/$100 × $80). Accordingly, Y receives Asset 1 with a basis of $80 ($120 − $40) and Asset 2 with a basis of $120 ($160 − $40).

(iii) *Retained stock and securities*—(A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 4*, except that X transfers Asset 1, Asset 2, and Asset 3 to Y in exchange for Y stock and Y securities, each constituting half of the consideration. In addition, for a valid business purpose, X retains Y stock and Y securities each worth 1 percent of the total consideration.

(B) *Analysis.* Paragraph (c)(1) of this section applies only to the extent that stock received in a transaction is distributed without recognition of gain or loss. Thus, section 362(e)(2) and this section apply to the extent that property was exchanged for the retained Y stock and Y securities (2 percent of the total). Accordingly, Y reduces its basis in Asset 1 and in Asset 2, the loss duplication property, by $1.60 (two percent of X's $80 net built-in loss). Asset 1 has a built-in loss of $50 ($120 − $70), and Asset 2 has a built-in loss of $50 ($160 − $110). Thus, Asset 1's allocable portion of X's net built-in loss is $.80 ($50/$100 × $1.60), and Asset 2's allocable portion of X's net built-in loss is $.80 ($50/$100 × $1.60). As a result, Y receives Asset 1 with a basis of $119.20 ($120 − $.80) and Asset 2 with a basis of $159.20 ($160 − $.80).

(iv) *Retained stock and securities with a section 362(e)(2)(C) election*—(A) *Facts.* The facts are the same as in paragraph (iii)(A) of this *Example 4*, except that an election under section 362(e)(2)(C) is made to reduce X's bases in its retained Y stock and retained Y securities.

(B) *Analysis.* Under paragraph (d)(2)(i) of this section, X reduces its basis in the retained Y stock and the retained Y securities (determined without regard to section 362(e)(2) and this section) by $1.60, the portion of X's $80 net built-in loss that would have been applied to reduce Y's basis in the transferred assets had the election to apply section 362(e)(2)(C) not been made. (Because the value of the Y stock and the value of the Y securities are equal, X's $500 basis in the transferred property would be allocated equally between the Y stock and the Y securities, $250 to each, under § 1.358–2(b)(2), and the retained Y stock and Y securities have a basis of $2.50 each (one percent of $250).) For the reasons set forth in paragraph (ii)(B) of this *Example 4*, Y would have been required to reduce its basis in the transferred assets by $1.60. Accordingly, X must reduce its aggregate basis in the retained Y stock and Y securities by $1.60. Under paragraph (d)(2)(i) of this section, the $1.60 basis reduction is allocated and applied to reduce X's bases in the retained Y stock and Y securities in proportion to the value of each. Because X retained Y stock and Y securities with equal values, X holds each of the retained Y stock and securities with an adjusted basis of $1.70 ($2.50 − $.80). Under paragraph (d)(2)(ii) of this section, Y receives Asset 1 with a basis of $120, Asset 2 with a basis of $160, and Asset 3 with a basis of $220.

Example 5. Transfer of liabilities—(i) *Liabilities described in section 358(d)(1)*—(A) *Basic application of section, no section*

362(e)(2)(C) election—(1) Facts. A owns Asset 1 (basis $800, value $700). A also has a $200 liability that has been taken into account for tax purposes and is thus described in section 358(d)(1), and not in sections 357(c)(3), 358(d)(2), and 358(h)(1). A transfers Asset 1 to X in exchange for a single outstanding share of X stock representing all the outstanding X stock immediately after the transaction and X's assumption of the liability. The transfer is a transaction to which section 351 applies.

(2) Analysis—(i) Loss duplication transaction. A's transfer of Asset 1 is a section 362(a) transaction. But for section 362(e)(2) and this section, X's basis in Asset 1 would be $800, which would exceed Asset 1's $700 value immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and A has a net built-in loss of $100 ($800 − $700).

(ii) Identifying loss duplication property. But for section 362(e)(2) and this section, X's basis in Asset 1 would be $800, which would exceed the $700 value of Asset 1 immediately after the transaction. Accordingly, Asset 1 is loss duplication property.

(3) Basis in loss duplication property. X's basis in Asset 1 is $700, computed as its $800 basis determined under section 362(a) reduced by A's $100 net built-in loss.

(4) Basis in other property. Under sections 358(a) and (d)(1), A's basis in the X stock is $600 ($800 basis in property transferred—$200 liability assumed).

(B) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A)(*1*) of this *Example 5*, except that A and X make an election under section 362(e)(2)(C). In this case, A's $100 net built-in loss that would have been applied to reduce X's basis in Asset 1 is applied to reduce A's basis in the X stock received. As a result, A's basis in the X stock is $500 ($600, as determined in paragraph (i)(A)(*4*) of this *Example 5*, reduced by $100) and X's basis in Asset 1 is $800.

(ii) *Contingent liabilities described in section 358(h)(1), section 358(h)(2)(A) exception applies*—(A) *Facts.* The facts are the same as in paragraph (i)(A)(*1*) of this *Example 5*, except that A's liability (valued at $200) has not been taken into account for tax purposes and is described in sections 358(d)(2) and 358(h)(1). However, Asset 1 is a trade or business and the liability is associated with the trade or business; as a result, the liability is described in section 358(h)(2)(A) and is excepted from the general rule of section 358(h)(1).

(B) *Analysis.* For the reasons set forth in paragraph (i)(A)(*2*) of this *Example 5*, A's transfer of Asset 1 is a loss duplication transaction, A has a net built-in loss of $100, and Asset 1 is loss duplication property.

(C) *Basis in loss duplication property.* For the reasons set forth in paragraph (i)(A)(*3*) of this *Example 5*, X's basis in Asset 1 is $700.

(D) *Basis in other property.* A's basis in the X stock is $800 under sections 358(a), 358(d)(2), and 358(h)(2)(A).

(E) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (ii)(A) of this *Example 5*, except that A and X make an election under section 362(e)(2)(C). In this case, A's $100 net built-in loss that would have applied to reduce X's basis in Asset 1 is applied to reduce A's basis in the X stock received. As a result, A's basis in the X stock is $700 ($800, as determined in paragraph (ii)(D) of this *Example 5*, reduced by $100). X's basis in Asset 1 is $800.

Example 6. Section 351 transfer with boot—(i) *Basic transaction*-(A) *Facts.* A owns Asset 1 (basis $80, value $100) and Asset 2 (basis $30, value $25). In a transaction to which section 351 applies, A transfers Asset 1 and Asset 2 to X in exchange for 10 shares of X stock and $25.

(B) *Analysis—(1) Loss duplication transaction.* A's transfer of Asset 1 and Asset 2 is a section 362(a) transaction. But for section 362(e)(2) and this section, X's aggregate basis in those assets would be $130, computed as follows. Under section 362(a), a corporation's basis in property acquired in a transaction to which section 351 applies is the same as the property's basis in the hands of the transferor, increased by any gain recognized to the transferor on such transfer. Under section 351(b), gain (but not loss) is recognized to the extent a transferor in a section 351 exchange receives other property or money in addition to the stock permitted to be received without the recognition of gain. To determine the amount of gain recognized under section 351(b), the consideration is allocated proportionately (by value) among the transferred properties. A's gain on the transfer is therefore computed as follows: Asset 1 reflects 80 percent of the value transferred ($100/$125) and Asset 2 reflects 20 percent of the value transferred ($25/$125). Thus, 80 percent of the stock (eight shares) and the cash ($20) are treated as being received in exchange for Asset 1 and 20 percent of the stock (two shares) and the cash ($5) are treated as being received in exchange for Asset 2. Thus, under section 351(b), A recognizes $20 of gain for the cash received in exchange for Asset 1, but A recognizes no loss for the amount received for Asset 2. As a result, under section 362(a), X would have a basis of $100 in Asset 1 and $30 in Asset 2. Thus, X's aggregate basis in the assets would be $130, which exceeds the $125 aggregate value of the assets ($100 + $25)). The transfer is a loss duplication transaction and A has a net built-in loss of $5 ($130 − $125).

(2) Identifying loss duplication property. But for section 362(e)(2) and this section, X's basis in Asset 1 would be $100 (A's $80 basis increased by A's $20 gain recognized), which would not exceed Asset 1's $100 value immediately after the transaction. Accordingly, Asset 1 is not loss duplication property. But for section 362(e)(2) and this section, X's basis in Asset 2 would be $30, which would exceed Asset 2's $25 value immediately after the transaction. Accordingly, Asset 2 is loss duplication property.

(C) *Basis in loss duplication property.* X's basis in Asset 2 is $25, computed as its $30 basis under section 362(a) reduced by A's $5 net built-in loss.

(D) *Basis in other property.* Under section 362(a), X's basis in Asset 1 is $100 (A's $80 basis increased by the $20 gain recognized). Under section 358, A's basis in the X stock is $105 (the sum of its $80 basis in Asset 1, its $30 basis in Asset 2, and its $20 gain recognized, reduced by the $25 cash received in the exchange).

(ii) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A) of this *Example 6*, except that A and X elect to reduce A's stock basis under section 362(e)(2)(C). Under paragraph (d)(2)(i) of this section, A reduces its $105 basis in the X stock by $5, the amount of A's net built-in loss of that would have been applied to reduce X's basis in Asset 2 had the section 362(e)(2)(C) election not been made. As a result, A's basis in the X stock is $100, and X's basis in Asset 2 is $30.

Example 7. Section 304 sale of built-in loss stock—(i) *Basic transaction*—(A) *Facts.* A owns all the stock of X (basis $90, value $60) and all the stock of Y. A sells all his X stock to Y for $60. Under section 304, A is treated as though he transferred the X stock to Y in exchange for Y stock in a transaction to which section 351 applies. Then, Y is treated as redeeming the Y stock it was treated as having issued to A in the deemed section 351 transaction.

(B) *Analysis—(1) Loss duplication transaction.* A's deemed transfer of X stock to Y is a section 362(a) transaction. But for section 362(e)(2) and this section, Y's aggregate basis in the X stock would be $90, which would exceed the X stock's value of $60 immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and A has a net built-in loss of $30.

(2) Identifying loss duplication property. But for section 362(e)(2) and this section, Y's basis in the X stock would be $90, which would exceed the X stock's $60 value immediately after the transaction. Accordingly, the X stock is loss duplication property.

(C) *Basis in loss duplication property.* Y's basis in the X stock is $60, its $90 basis determined without regard to section 362(e)(2) and this section, reduced by A's $30 net built-in loss.

(D) *Basis in other property.* Under section 358(a), A has an exchanged basis of $90 in the Y stock he is deemed to receive in the exchange; the effect of the deemed redemption of that stock is then determined under section 302.

(ii) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A) of this *Example 7*, except that the parties elect to reduce A's stock basis under section 362(e)(2)(C). For the reasons set forth in paragraphs (i)(B) and (C) of this *Example 7*, Y's basis in the X stock would be reduced by $30. Accordingly, A's basis in the deemed-issued Y stock is $60, his $90 basis otherwise determined under section 358(a) reduced by the $30 that would have been applied to reduce Y's basis in the X stock under section 362(e)(2) and this section; the effect of the deemed redemption of that stock is then determined under section 302. Y's basis in the X stock is $90.

Example 8. Transactions involving partnerships—(i) *Transfer by a partnership*—(A) *Basic application of section—(1) Facts.* PRS owns Asset 1 (basis $100, value $70). PRS contributes Asset 1 to X in a transaction to which section 351 applies.

(2) *Analysis*—(i) *Loss duplication transaction.* PRS's transfer of Asset 1 is a section 362(a) transaction. But for section 362(e)(2) and this section, X's basis in Asset 1 would be $100, which would exceed Asset 1's $70 value immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and PRS has a net built-in loss of $30 ($100 − $70).

(ii) *Identifying loss duplication property.* But for section 362(e)(2) and this section, X's basis in Asset 1 would be $100, which would exceed Asset 1's $70 value immediately after the transaction. Accordingly, Asset 1 is loss duplication property.

(3) *Basis in loss duplication property.* X's basis in Asset 1 is $70, computed as its $100 basis under section 362(a) reduced by PRS's $30 net built-in loss.

(4) *Basis in other property.* Under section 358(a), PRS has an exchanged basis of $100 in the X stock it receives in the exchange.

(B) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A)(1) of this *Example 8*, except that PRS and X elect to reduce PRS's stock basis under section 362(e)(2)(C). In this case, PRS's $30 net built-in loss (as determined in paragrapb (i)(A)(2)(i) of this *Example 8*) that would have been applied to reduce X's basis in Asset 1 is applied to reduce PRS's basis in the X stock received. As a result, PRS's basis in the X stock is $70 ($100 − $30) and X's basis in Asset 1 is $100. The $30 reduction to PRS's basis in the X stock is treated as an expenditure of PRS under section 705(a)(2)(B) and paragraph (e)(1) of this section. As a result, the partners of PRS must reduce their bases in their PRS interests.

(ii) *Transfer of interest in partnership with liability*—(A) *Basic application of section*—(1) *Facts.* A and two other individuals are equal partners in PRS. A's basis in its partnership interest is $247. A's share of PRS's § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) is $145. A transfers his partnership interest to X in a transaction to which section 351 applies. PRS has no election in effect under section 754. If X were to sell the PRS interest immediately after the transfer, X would receive $100 in cash or other property. In addition, assume that, taking into account the rules under § 1.752–4, X's share of PRS's § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) is $150 immediately after the transfer.

(2) *Analysis*—(i) *Loss duplication transaction.* A's transfer of its PRS interest is a section 362(a) transaction. But for section 362(e)(2) and this section, X's basis in the PRS interest, would be $252 (A's basis of $247, reduced by A's $145 share of PRS liabilities, increased by X's $150 share of PRS liabilities) and, under paragraph (g)(12)(ii) of this section, the value of the PRS interest would be $250 (the sum of $100, the cash X would receive if X immediately sold the interest, and $150, X's share of the § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) under section 752 immediately after the transfer to X). Therefore, the transfer is a loss duplication transaction and A has a net built-in loss of $2 ($252 − $250).

(ii) *Identifying loss duplication property.* But for section 362(e)(2) and this section, X's basis in the PRS interest would be $252, which would exceed the PRS interest's $250 value immediately after the transaction. Accordingly, the PRS interest is loss duplication property.

(3) *Basis in loss duplication property.* X's basis in the PRS interest is $250, computed as its $252 basis under section 362(a), taking into account the rules under section 752, reduced by A's $2 net built-in loss.

(4) *Basis in other property.* Under section 358, taking into account the rules under section 752, A has a basis of $102 ($247 reduced by A's $145 share of PRS liabilities) in the X stock he receives in the transaction.

(B) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A) of this *Example 8*, except that A and X make an election under section 362(e)(2)(C). Under paragraph (d)(2)(i) of this section, A reduces his basis in the X stock, as determined without regard to section 362(e)(2) and this section, by the amount of A's net built-in loss that would have been applied to reduce X's basis in the PRS interest had the section 362(e)(2)(C) election not been made. In addition, no reduction is made to X's basis in the PRS interest, as determined without regard to section 362(e)(2) and this section. As a result, A's basis in the X stock is $100 ($102 − $2) and X's basis in the PRS interest is $252.

(C) *Transfer of partnership interest with liability, not loss duplication transaction.* The facts are the same as in paragraph (ii)(A)(1) of this *Example 8*, except that A's share of PRS's § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) is $155. But for section 362(e)(2) and this section, X's basis in the PRS interest would be $242 (A's basis of $247, reduced by A's $155 share of PRS liabilities, increased by X's $150 share of PRS liabilities), which would not exceed the PRS interest's $250 value immediately after the transaction. Accordingly, A's transfer of the PRS interest is not a loss duplication transaction and section 362(e)(2) and this section have no application to the transaction. Under section 362(a), X's basis in the PRS interest is $242 and, under section 358, taking into account the rules under section 752, A has a basis of $92 ($247 reduced by A's $155 share of PRS liabilities) in the X stock he receives in the transaction.

Example 9. Transactions involving S Corporations—(i) *Transfer by S Corporation*—(A) *No section 362(e)(2)(C) election*—(1) *Facts.* S, an S corporation as defined in section 1361(a)(1), owns Asset 1 (basis $100, value $70). S transfers Asset 1 to X in exchange for a single outstanding share of X stock representing all the outstanding X stock immediately after the transaction. S does not elect to treat X as a qualified subchapter S subsidiary. The transaction is one to which section 351 applies.

(2) *Analysis*—(i) *Loss duplication transaction.* S's transfer of Asset 1 is a section 362(a) transaction. But for section 362(e)(2) and this section, X's basis in Asset 1 would be $100, which would exceed Asset 1's $70 value immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and S has a net built-in loss of $30 ($100 − $70).

(ii) *Identifying loss duplication property.* But for section 362(e)(2) and this section, X's basis in Asset 1 would be $100, which would exceed Asset 1's $70 value immediately after the transaction. Accordingly, Asset 1 is loss duplication property.

(iii) *Basis in loss duplication property.* X's basis in Asset 1 is $70, computed as its $100 basis under section 362(a) reduced by S's $30 net built-in loss.

(iv) *Basis in other property.* Under section 358(a), S has an exchanged basis of $100 in the X stock it receives in the exchange.

(B) *Section 362(e)(2)(C) election.* The facts are the same as in paragraph (i)(A)(1) of this *Example 9*, except that S and X elect to reduce S's stock basis under section 362(e)(2). In this case, S's $30 built-in loss (as determined in paragraph (i)(A)(2)(i) of this *Example 9*) that would have been applied to reduce X's basis in Asset 1 is applied to reduce S's basis in the X stock received. As a result, S's basis in the X stock is $70 ($100 − $30) and X's basis in Asset 1 is $100. The $30 reduction to S's basis in the X stock is treated as an expense of S under section 1367(a)(2)(D) and paragraph (e)(2) of this section. As a result, the shareholders of S must reduce their bases in their S stock.

(ii) *Transfer to S Corporation*—(A) *Basic application of section.* (1) *Facts.* A owns Asset 1 (basis $90, value $60) and Asset 2 (basis $110, value $120). In a transaction to which section 351 applies, A transfers Asset 1 and Asset 2 to S, an S corporation as defined in section 1361(a)(1), in exchange for a single share of S stock representing all the outstanding S stock immediately after the transaction.

(2) *Analysis*—(i) *Loss duplication transaction.* A's transfer of Asset 1 and Asset 2 is a section 362(a) transaction. But for section 362(e)(2) and this section, S's aggregate basis in those assets would be $200 ($90 + $110), which would exceed the aggregate value of the assets $180 ($60 + $120) immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and A has a net built-in loss of $20 ($200 − $180).

(ii) *Identifying loss duplication property.* But for section 362(e)(2) and this section, S's basis in Asset 1 would be $90, which would exceed Asset 1's $60 value immediately after the transaction. As a result, Asset 1 is loss duplication property. But for section 362(e)(2) and this section, S's basis in Asset 2 would be $110, which would not exceed Asset 2's $120 value immediately after the transaction. As a result, Asset 2 is not loss duplication property.

(3) *Basis in loss duplication property.* S's basis in Asset 1 is $70, computed as its $90 basis under section 362(a) reduced by S's $20 net built-in loss. The $20 reduction to S's basis in Asset 1 does not require a reduction to A's basis in its S stock under section 1367(a)(2)(D). See paragraph (f) of this section.

(4) *Basis in other property.* Under section 362(a), S has a transferred basis of $110 in Asset 2. Under section 358(a), A has a basis of $200 in the S stock it receives in the exchange.

(B) *Section 362(e)(2)(C) election*—(1) *Application of section to transaction.* The facts are the same as in paragraph (ii)(A)(1) of this *Example 9*, except that A and S elect

to reduce A's stock basis under section 362(e)(2)(C). In this case, A's $20 built-in loss (as determined in paragraph (ii)(A)(*2*) of this *Example 9*) that would have been applied to reduce S's basis in Asset 1 is applied to reduce A's basis in the S stock received. As a result, A's basis in the S stock is $180 ($200 − $20), S's basis in Asset 1 is $90, and S's basis in Asset 2 is $110.

(*2*) *Tax consequences of subsequent disposition of transferred assets.* The facts are the same as in paragraph (ii)(B)(*1*) of this *Example 9* except that, in addition, the year after the transaction, S sells Asset 1 (basis $90, value $60) and Asset 2 (basis $110, value $120) for $180, recognizing the $20 net built-in loss. The loss is allocated to A and reduces A's basis in the S stock from $180 to $160 under section 1367(a)(2)(B). If A then sells its S stock for its $180 value, A will recognize a gain of $20.

Example 10. Triangular reorganizations—(i) *Facts.* P owns all the stock of S1 and X owns all the stock of S2. In a merger described in section 368(a)(2)(D), S2 merges with and into S1, and X receives stock of P in exchange for its S2 stock. S2 has a net built-in loss in its assets acquired by S1 in the transaction.

(ii) *Analysis.* The reorganization is not a section 362(a) transaction, notwithstanding that, under § 1.358–6(c), P is treated as acquiring and then transferring S2's assets to S1 for purposes of determining P's adjustment to its basis in its S1 stock. Accordingly, S1's basis in the property acquired in the transaction is not determined under section 362(e)(2) and this section; it is determined under section 362(b).

Example 11. Transfer that includes property described in section 362(e)(1)(B) and property not described in section 362(e)(1)(B)—(i) *Facts.* FC1 transfers Asset 1 (basis $80, value $50) and Asset 2 (basis $120, value $110) to DC in a transaction to which section 351 applies. Asset 1 is not property described in section 362(e)(1)(B); Asset 2 is property described in section 362(e)(1)(B).

(ii) *Basis in property described in section 362(e)(1)(B).* Immediately after the transfer and without regard to section 362(e)(1) or section 362(e)(2) and this section, DC's aggregate basis in property described in section 362(e)(1)(B) (Asset 2) would be $120 under section 362(a). However, the aggregate value of such property immediately after the transfer is $110. Accordingly, the transfer of Asset 2 is an importation of net built-in loss within the meaning of section 362(e)(1)(C) and, under section 362(e)(1), X's basis in Asset 2 would be Asset 2's value, $110.

(iii). *Application of section*—(A) *Analysis*—(*1*) *Loss duplication transaction.* FC1's transfer of Asset 1 and Asset 2 is a section 362(a) transaction. But for section 362(e)(2) and this section, DC's aggregate basis in those assets would be $190 (Asset 1's $80 basis under section 362(a) + Asset 2's $110 basis under section 362(e)(1)), which would exceed the aggregate value of the assets $160 ($50 + $110) immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and FC1 has a net built-in loss of $30 ($190 − $160).

(*2*) *Identifying loss duplication property.* But for section 362(e)(2) and this section, DC's basis in Asset 1 would be $80, which would exceed Asset 1's $50 value immediately after the transaction. Accordingly, Asset 1 is loss duplication property. But for section 362(e)(2) and this section, DC's basis in Asset 2 would be $110, which would not exceed Asset 2's $110 value immediately after the transaction. Accordingly, Asset 2 is not loss duplication property.

(B) *Basis in loss duplication property.* DC's basis in Asset 1 is $50, computed as its $80 basis under section 362(a) reduced by FC1's $30 net built-in loss.

(C) *Basis in other property.* Under section 362(e)(1), DC's basis in Asset 2 is $110. Under section 358(a), FC1 has an exchanged basis of $200 in the DC stock it receives in the transaction.

Example 12. Section 362(e)(2)(C) elections with respect to transfers between persons that are not required to file a U.S. return and that are not CFCs or CFPs—(i) *Basic application of section.* On June 30, Year 1, FC1 transfers Asset 1 to FC2 in a transaction to which section 351 applies (the original transfer) and that is therefore a section 362(a) transaction. But for section 362(e)(2) and this section, FC2's basis in Asset 1 (determined immediately after the transfer, taking into account all applicable law, including section 362(e)(1)) exceeds the value of Asset 1 immediately after the transaction. Accordingly, the transaction is a loss duplication transaction and Asset 1 is loss duplication property. FC1 and FC2 executed a written, binding agreement to apply section 362(e)(2)(C) at some point before any Section 362(e)(2)(C) Statement is filed. However, the transfer was not entered into with a view to reducing or avoiding the Federal income tax liability of any person by avoiding the application of section 362(e)(2) and this section; further, no event described in paragraph (d)(3)(ii)(E), (F), or (G) of this section occurs prior to June 30, Year 3. As a result, under paragraph (c)(2) of this section, section 362(e)(2) and this section do not apply to the transfer. Accordingly, FC2's basis in Asset 1 is determined under section 362(a), no section 362(e)(2)(C) election can be made, and any protective filing of a Section 362(e)(2)(C) Statement will have no effect.

(ii) *Loss duplication property later acquired by a person required to file U.S. return.* The facts are the same as in paragraph (i) of this *Example 12,* except that, in addition, on January 1, Year 2, FC2 transfers Asset 1 to DC in an exchange to which section 351 applies. FC2's transfer is an event described in paragraph (d)(3)(ii)(G) of this section. As a result, paragraph (c)(2) does not except the original transfer from the application of section 362(e)(2) and this section. Under paragraph (d)(3)(ii)(G) of this section, DC must include the Section 362(e)(2)(C) Statement for the original transfer on or with its Year 2 U.S. return in order for that election to be effective. The result would be the same if, instead of FC2 transferring Asset 1 to DC, FC1 transferred its FC2 stock to DC in an exchange to which section 351 applies. (Further, if an asset transferred by FC1 or FC2 to DC is a loss asset immediately after its transfer to DC, DC's basis in that asset may be subject to section 362(e)(1).)

(iii) *Party to exchange later becomes a person required to file U.S. return.* The facts are the same as in paragraph (i) of this *Example 12,* except that, in addition, on January 1, Year 2, FC2 becomes engaged in a U.S. business. FC2's becoming engaged in a U.S. business is an event described in paragraph (d)(3)(ii)(F) of this section because it will cause FC2 to become a person required to file a U.S. return. As a result, paragraph (c)(2) of this section does not except the transfer from the application of section 362(e)(2) and this section. Under paragraph (d)(3)(ii)(F) of this section, FC2 must include the Section 362(e)(2)(C) Statement for the original transfer on or with its Year 2 U.S. return in order for the section 362(e)(2)(C) election for the original transfer to be effective.

(iv) *Statement not filed with respect to designated event.* The facts are the same as in paragraph (iii) of this *Example 12,* except that, in addition, FC1 became engaged in a U.S. trade or business on October 31, Year 1 and as a result became a person required to file a U.S. return, an event described in paragraph (d)(3)(ii)(E) of this section. As a result, paragraph (c)(2) of this section does not except the transfer from the application of section 362(e)(2) and this section. Further, in order for the election to be effective, FC1 must file the Section 362(e)(2)(C) Statement on or with its Year 1 U.S. return. See paragraph (d)(3)(ii)(E) of this section. A statement filed by FC2 on or with its Year 2 U.S. return has no effect. Thus, if FC1 does not file the statement, the election does not become effective and basis is determined under the general rule of section 362(e)(2).

(v) *Nonrecognition transfer of loss duplication property outside United States, transferee later becomes engaged in U.S. trade or business.* The facts are the same as in paragraph (i) of this *Example 12,* except that, in addition, on December 31, Year 1, FC2 transfers Asset 1 to FC3 in a transferred basis transaction. In Year 2, FC3 becomes engaged in a U.S. trade or business and as a result becomes a person required to file a U.S. return; Asset 1 is not used in or connected with the U.S. trade or business or otherwise subject to Federal income tax. FC3's becoming engaged in a U.S. trade or business is an event described in paragraph (d)(3)(ii)(F) of this section because FC3, a person who holds loss duplication property with a basis determined by FC2's basis in the property, will be required to file a U.S. return as a result of its becoming engaged in a U.S. business. As a result, paragraph (c)(2) of this section does not except the transfer from the application of section 362(e)(2) and this section. Under paragraph (d)(3)(ii)(F) of this section, FC3 must include the Section 362(e)(2)(C) Statement for the original transfer on or with its Year 2 U.S. return in order for the section 362(e)(2)(C) election for the original transfer to be effective.

(i) [Reserved].

(j) *Effective/applicability date.* This section applies to transactions occurring after September 3, 2013, unless effected

pursuant to a binding agreement that was in effect prior to September 3, 2013, and at all times thereafter. In addition, taxpayers may apply these regulations to transactions occurring after October 22, 2004.

■ **Par. 4.** In § 1.705–1, paragraph (a)(9) is added to read as follows:

§ 1.705–1 Determination of basis of partner's interest.

(a) * * *

(9) For basis adjustments necessary to coordinate sections 705 and 362(e)(2), see § 1.362–4(f)(i).

* * * * *

■ **Par. 5.** In § 1.1367–1, a new sentence is added at the end of paragraph (c)(2) to read as follows:

§ 1.1367–1 Adjustments to basis of shareholder's stock in an S corporation.

* * * * *

(c) * * *

(2) * * * For basis adjustments necessary to coordinate sections 1367 and 362(e)(2), see § 1.362–4(f)(ii).

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 6.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 7.** In § 602.101, paragraph (b) is amended by adding the following entries to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.336–2	1545–2125
1.336–4	1545–2125
* * * * *	
1.362–4	1545–2247
* * * * *	

Beth Tucker,

Deputy Commissioner for Operations Support.

Approved: August 23, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–21330 Filed 8–30–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0742]

RIN 1625–AA08

Eighth Coast Guard District Annual Marine Events; Clarksville Riverfest; Cumberland River 125.0–126.0; Clarksville, TN

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a Special Local Regulation for the Clarksville Riverfest marine event on the Cumberland River mile markers 125.0–126.0 from 8:00 a.m. until 1:00 p.m. on September 7, 2013. This action is necessary to safeguard participants and spectators, including all crews, vessels, and persons on navigable waters, during the Clarksville Riverfest marine event. During the enforcement period, entry into, transiting or anchoring in the Special Local Regulation is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Ohio Valley or a designated representative.

DATES: The regulations in 33 CFR 100.801 will be enforced from 8:00 a.m. until 1:00 p.m. on September 7, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call Petty Officer James Alter, Coast Guard Marine Safety Detachment Nashville at 615–736–5421, or *james.r.alter@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Special Local Regulation for the annual Clarksville Riverfest marine event listed in 33 CFR 100.801 Table 1, Table No. 30; Sector Ohio Valley, No. 30 on September 7, 2013 from 8:00 a.m. until 1:00 p.m.

Under the provisions of 33 CFR 100.801, entry into the safety zone listed in Table 1, Table No. 30; Sector Ohio Valley, No. 30 is prohibited unless authorized by the Captain of the Port or a designated representative. Persons or vessels desiring to enter into or passage through the Safety Zone must request permission from the Captain of the Port or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative.

This notice is issued under authority of 5 U.S.C. 552 (a); 33 U.S.C. 1233. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and Marine Information Broadcasts.

If the Captain of the Port Ohio Valley or Patrol Commander determines that the Special Local Regulation need not be enforced for the full duration stated in this notice of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: August 12, 2013.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2013–21289 Filed 8–30–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[USCG–2013–0718]

RIN 1625–AA08

Special Local Regulation, Cumberland River, Mile 157.0 to 159.0; Ashland City, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for the waters of the Cumberland River beginning at mile marker 157.0 and ending at mile marker 159.0, extending bank to bank. This zone is necessary to protect the swimmers participating in the Nashvegas Triathlon on the Cumberland River. Entry into this area is prohibited unless specifically authorized by the Captain of the Port (COTP) Ohio Valley or designated representative.

DATES: This rule is effective from 6:00 a.m. to 11:30 a.m. September 7, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0718]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West

Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Petty Officer James Alter, Marine Safety Detachment Nashville, at (615) 736–5421 or email at *james.r.alter@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

BNM Broadcast Notices to Mariners
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast guard received notice on June 28, 2013 that the Nashvegas Triathlon is planned to take place on September 7, 2013. A special local regulation is necessary during a swim event on the Cumberland River. There is not time to complete the NPRM process, and immediate action is necessary to establish this special local regulation to protect participants and event personnel from the possible marine hazards present during the swim portion of the triathlon. Delaying the special local regulation would also unnecessarily interfere with the planned event. This event is included in an ongoing rulemaking to be added to the CFR that can be found under docket number USCG–2013–0014.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Providing a full 30 days notice and delaying the effective date for this special local regulation would be impracticable because immediate action is necessary to protect event participants from the possible marine hazards present during the triathlon.

B. Basis and Purpose

The Nashvegas Triathlon takes place on the Cumberland River from mile marker 157.0 to 159.0. The Coast Guard determined that a temporary special local regulation is needed to protect the 800 swimmers participating in the Nashvegas Triathlon. The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations. The COTP Ohio Valley is establishing a special local regulation for the waters of the Cumberland River, beginning at mile marker 157.0 and ending at 159.0 to protect the swimmers participating in the Nashvegas Triathlon. Entry into this area is prohibited unless specifically authorized by the COTP Ohio Valley or designated representative.

C. Discussion of the Final Rule

The COTP Ohio Valley is establishing a special local regulation for the waters of the Cumberland River, beginning at mile marker 157.0 and ending at 159.0, during the swim portion of the Nashvegas Triathlon. During this event, vessels shall not enter into, depart from, or move within the area of this special local regulation without permission from the COTP Ohio Valley or his authorized representative. Persons or vessels requiring entry into or passage through the special local regulation must request permission from the COTP Ohio Valley, or a designated representative. They may be contacted on VHF–FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1–800–253–7465. This rule is effective from 6:00 a.m. to 11:30 a.m. September 7, 2013. The COTP Ohio Valley will inform the public through Broadcast Notices to Mariners (BNM) of the enforcement period for the special local regulation as well as any changes in the planned schedule.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

This special local regulation restricts transit on the Cumberland River from mile marker 157.0 through 159.0 and covers a period of five and one half hours, from 6:00 a.m. to 11:30 a.m. September 7, 2013. Due to its short duration and limited scope, it does not pose a significant regulatory impact. Broadcast Notices to Mariners (BNM) will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit mile marker 157.0 to 159.0 on the Cumberland River, from 6:00 a.m. to 11:30 a.m. on September 7, 2013. The special local regulation will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for a short period of time. BNMs will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees

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

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves establishing a temporary special local regulation to protect the swimmers participating in the Nashvegas Triathlon on the Cumberland River from mile markers 157.0 to 159.0 for five hour period on one day.

An environmental analysis was performed during the marine event permit process for the triathlon event and a checklist and a categorical exclusion determination are not required for this special local regulation.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the U. S. Coast Guard amends 33 CFR Part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

■ 2. A new temporary § 100.T08–0718 is added to read as follows:

§ 100.T08–0718 Special local regulation; Cumberland River, Miles 157.0 to 159.0, Ashland City, TN.

(a) *Location.* The following area is a special local regulation: All waters of the Cumberland River, beginning at mile marker 157.0 and ending at mile marker 159.0.

(b) *Effective date.* This section is effective and enforceable from 6:00 a.m. to 11:30 a.m. on September 7, 2013.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.35 of this part, entry into this area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the Captain of the Port Ohio Valley or a designated representative. U. S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational broadcasts:* The Captain of the Port Ohio Valley or a designated representative will inform the public through broadcast notice to mariners when the special local regulation has been established and if there are changes to the enforcement period for this special local regulation.

Dated: August 2, 2013.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2013–21288 Filed 8–30–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0654]

RIN 1625–AA00

Safety Zone; SFOBB Demolition Safety Zone, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the San Francisco Bay near Yerba Buena Island, CA in support of the San Francisco-Oakland Bay Bridge (SFOBB) Demolition Safety Zone from September 1, 2013 through December 30, 2014. This safety zone is established to protect mariners transiting the area from the dangers associated with over-head demolition and debris removal operations of the SFOBB. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective September 1, 2013 through December 30, 2014. This rule will be enforced from 6 a.m. until 7 p.m. daily on the dates mentioned above.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0654. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade William Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CALTRANS California Department of Transportation
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
SFOBB San Francisco-Oakland Bay Bridge

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be contrary to the public interest. CALTRANS submitted a request for a safety zone on July 10, 2013 and the demolition project will begin before the rulemaking process would be completed. Because of the dangers posed by over-head demolition and debris removal operations of the SFOBB, the safety zone is necessary to provide for the safety of mariners transiting the area. For the safety concerns noted, it is in the public interest to have this safety zone in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the reasons stated above, delaying the effective date would be contrary to the public interest.

B. Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C 1231; 46 U.S.C Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones.

CALTRANS will sponsor the SFOBB Demolition Safety Zone from September 1, 2013 through December 30, 2014, in the navigable waters of the San Francisco Bay near Yerba Buena Island, CA. Demolition and debris removal operations are scheduled to take place from 6 a.m. to 7 p.m. daily beginning on September 1, 2013 and ending on December 30, 2014. The safety zone will encompass the navigable waters of the San Francisco Bay within 100 yards of the SFOBB from Yerba Buena Island to the "I" Pier, also known as "E4" Pier. The demolition project is necessary to facilitate the completion of the Bay Bridge project. The safety zone is issued to establish a temporary limited access area on the waters surrounding the demolition operation. The safety zone is necessary to protect mariners transiting the area from the dangers associated with over-head debris removal.

C. Discussion of the Final Rule

The Coast Guard will enforce a safety zone in navigable waters around and under the SFOBB within 100 yards of the bridge beginning at Yerba Buena Island and ending at the "I" Pier for the demolition and debris removal of the Yerba Buena Island Detour and the Cantilever Truss segment of the SFOBB. Demolition and debris removal is scheduled to take place from 6 a.m. to 7 p.m. daily beginning on September 1, 2013 and ending on December 30, 2014. At the conclusion of the demolition operations the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the demolition and debris removal operations. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. This safety zone is needed to protect public safety by keeping mariners and vessels away from the immediate vicinity of the construction operation. The maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this rule does not rise to the level of necessitating a full Regulatory

Evaluation. The safety zone is limited in duration, and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the safety zone at times when this zone is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) This rule will encompass only a small portion of the waterway for a limited period of time, (ii) vessel traffic can transit safely around the safety zone, and (iii) the maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the

discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165–T11–589 to read as follows:

§ 165–T11–589 Safety zone; SFOBB Demolition Safety Zone, San Francisco, CA.

(a) *Location.* This temporary safety zone is established in the navigable waters of the San Francisco Bay near Yerba Buena Island, California as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18650. The safety zone will encompass the navigable waters around the SFOBB within 100 yards beginning at Yerba Buena Island and ending at the "I" Pier.

(b) *Enforcement Period.* The zone described in paragraph (a) of this section will be in effect from 6 a.m. to 7 p.m. daily from September 1, 2013 until December 30, 2014. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR Part 165, Subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: August 15, 2013.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2013–21290 Filed 8–30–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0377; FRL–9900–51–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Maintenance Plan Update for Lake County, Indiana for Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a maintenance plan update for the Lake County, Indiana sulfur dioxide (SO_2) maintenance area. This plan update demonstrates that Lake County will maintain attainment of the 1971 SO_2 national ambient air quality standard (NAAQS) through 2025. This maintenance plan update satisfies section 175A of the Clean Air Act (Act), and is consistent with the September 26, 2005, approval of the State's redesignation request and maintenance plan for the Lake County, Indiana SO_2 area.

DATES: This direct final rule will be effective November 4, 2013, unless EPA receives adverse comments by October 3, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0377, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R0–OAR–2013–0377. 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.

Docket: 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, 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michael Leslie, Environmental Engineer, at (312) 353–6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What is the background for this action?
II. What is the current air quality in Lake County?
III. What is EPA's analysis of the State's request?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews.

I. What is the background for this action?

On March 3, 1978 (43 FR 8962), EPA designated a portion of Lake County, Indiana as a primary nonattainment area for the 1971 SO_2 NAAQS under Section 107 of the Act. Indiana submitted a redesignation request and maintenance plan for the Lake County nonattainment area, which was subsequently redesignated to attainment by EPA on September 26, 2005 (70 FR 56129). As part of the maintenance plan, Indiana committed to submit an update to the Lake County SO_2 the maintenance plan eight years after the area was redesignated to attainment of the SO_2 standard. Indiana submitted a revision to the state implementation plan (SIP) for the 1971 SO_2 NAAQS maintenance plan update on March 28, 2013.

II. What is the current air quality in Lake County?

There are two SO_2 monitors currently operating in Lake County, Indiana. Current air quality data shows a continued downward trend in SO_2, as shown in Table 1. The 1971 SO_2 NAAQS was not exceeded during the 2004–2011 timeframe.

TABLE 1—LAKE COUNTY, IN SO_2 MONITORING DATA 2004–2011 (PPM)

Site	Year	24 hour max (NAAQS = 0.14)	3 hour max (NAAQS = 0.5)	Annual average (NAAQS = 0.03)
Gary	2004	0.051	0.085	0.005
Gary	2005	0.050	0.165	0.004
Gary	2006	0.030	0.079	0.003
Gary	2007	0.022	0.071	0.003
Gary	2008	0.019	0.095	0.003
Gary	2009	0.020	0.057	0.002
Gary	2010	0.030	0.061	0.002
Gary	2011	0.024	0.060	0.002
Hammond	2004	0.022	0.038	0.004
Hammond	2005	0.017	0.045	0.003
Hammond	2006	0.016	0.029	0.004
Hammond	2007	0.022	0.048	0.005
Hammond	2008	0.011	0.029	0.004
Hammond	2009	0.009	0.035	0.003
Hammond	2010	0.012	0.024	0.002
Hammond	2011	0.012	0.029	0.003

III. What is EPA's analysis of the State's request?

Section 175A of the Act sets forth the required elements of a maintenance plan for the areas that are attaining the NAAQS. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future SO_2 violations.

The September 4, 1992, John Calcagni memorandum entitled, "Procedures for Processing Requests to Redesignations Areas to Attainment," provides additional guidance on the content of a maintenance plan. The memorandum states that an SO_2 maintenance plan should address the following items: The attainment emissions inventory, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

a. Attainment Inventory

Indiana developed a baseline emissions inventory for 2003, one of the years used to demonstrate monitored attainment of the 1971 SO_2 NAAQS. The attainment level of emissions is summarized in below:

TABLE 2—LAKE COUNTY SO_2 EMISSIONS

[Tons/year]

Source	Base year 2003	2011	2015	2025	Net change 2003–2025
Point	33,101	24,308	17,880	17,459	−15,642

b. Demonstration of Maintenance

Indiana submitted revisions to the SO_2 SIP to include 12 year maintenance plans for Lake County area, in compliance with section 175A of the Act. This demonstration shows maintenance of the 1971 SO_2 NAAQS by assuring that current and future SO_2 emissions remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA*, 375 F. 3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Indiana is using projected inventories for the years 2015 and 2025 to demonstrate maintenance. These emission estimates are presented in Table 2.

The emission projections show that Indiana does not expect Lake County emissions in the area to exceed the level of the 2003 attainment year inventory during the maintenance period. In the area, Indiana projects that SO_2 emissions will decrease by 15,642 tons/year for the maintenance period. The SIP submission demonstrates that the area will continue to maintain the standard.

c. Monitoring Network

Indiana currently operates two SO_2 monitors in Lake County, Indiana. Indiana has committed to continue operating and maintaining its approved Lake County SO_2 monitor network in accordance with 40 CFR part 58.

d. Verification of Continued Attainment

Continued attainment of the 1971 SO_2 NAAQS in the area depends, in part, on the state's efforts toward tracking indicators of continued attainment during the maintenance period. The state's plan for verifying continued attainment of the SO_2 standard in the area consists of plans to continue ambient SO_2 monitoring in accordance with the requirements of 40 CFR part 58. In addition, Indiana will periodically review and revise the SO_2 emissions inventory for the area, as required by the Consolidated Emissions Reporting Rule (40 CFR part 51), to track levels of emissions in the future.

e. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A(d) of the Act requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the State. The State should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented.

Indiana updated their original contingency plan to ensure that it is consistent with the current inventory of SO_2 sources for the area. The contingency plan includes a two trigger levels for action based on monitored values. Indiana will continue to monitor SO_2 concentrations to determine whether trends indicate higher values or whether emissions appear to be increasing.

An initial Warning Level Response is triggered when 90% of the 1971 SO_2 NAAQS is reached. A study will be conducted at the Warning Level Response to determine if the emissions trends show increases. If the study shows that action is necessary to reverse emissions increases, Indiana will follow the same procedures described below for control selection and implementation for the Action Level Response.

The Action Level Response will be prompted by a violation of the standard. If an Action Level Response is triggered, Indiana will adopt and implement appropriate control measures within 18 months from the end of the year in which monitored air quality triggering a response occurs.

Contingency measures will be considered based on those that are deemed appropriate and effective at the time of selection. Because SO_2 emissions are attributed primarily to point sources, the options available are limited to appropriate measures for the types of culpable sources. Indiana will undertake a study take to determine the source of the increased SO_2 concentrations. Although the point sources listed in the inventory will be the primary focus, the study will also encompass any other potential sources of SO_2.

The selection of measures will be based upon cost-effectiveness, emission reduction potential, and economic and social considerations or other factors that Indiana deems appropriate. A selected contingency measure can be initiated immediately in response to an action level response and should be in place within 18 months of the date of the violation. No contingency measure will be implemented without providing the opportunity for full public participation during which the relative costs and benefits of individual measures, at the time they are under consideration, can be fully evaluated.

Adoption of any control measure is subject to administrative and legal approval. This includes an opportunity for public hearing and publication of notices on Indiana's Web site, as well as other measures required by Indiana law (IC 13–14–8–7) for rule making by Indiana environmental rule boards. This law provides accelerated procedures for adopting interim control measures in the event of an emergency affecting public health.

The SO_2 sources potentially subject to future controls are the same as the current list of sources, found in the maintenance plan. Sources subject to additional controls will be those which the study shows are responsible for triggering the contingency measures and the control of which will most effectively help to ensure compliance with the standards. In addition to reviewing the known sources, the possibility that the problem is attributable to new or previously unknown sources will be considered.

IV. What action is EPA taking?

EPA is approving a maintenance plan update for the Lake County, Indiana SO_2 maintenance area. This plan update demonstrates that Lake County will maintain attainment of the 1971 SO_2 NAAQS through 2025. This maintenance plan update satisfies section 175A of the Act.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective November 4, 2013 without further notice unless we receive relevant adverse written comments by October 3, 2013. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that

provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective November 4, 2013.

V. Statutory and Executive Order Reviews

Under the Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air 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 Act. 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 Act; 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 4, 2013. 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, Sulfur dioxide.

Dated: August 20, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. The table in § 52.770 paragraph (e) is amended by adding an entry in alphabetical order for "Lake County sulfur dioxide maintenance plan" to read as follows:

§ 52.770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
Lake County sulfur dioxide maintenance plan.	March 28, 2013	September 3, 2013, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	

■ 3. Section 52.795 is amended by adding paragraph (i) to read as follows:

§ 52.795 Control strategy: Sulfur dioxide.

* * * * *

(i) Approval—On March 28, 2013 the State of Indiana submitted a maintenance plan update for the Lake County, Indiana SO_2 maintenance area. This plan update demonstrates that Lake County will maintain attainment of the 1971 SO_2 NAAQS through 2025.

This maintenance plan update satisfies section 175A of the Act.

[FR Doc. 2013–21274 Filed 8–30–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2013–0592; FRL–9900–59–Region2]

Adequacy Status of the Submitted 2009, 2017 and 2025 $PM_{2.5}$ Motor Vehicle Emission Budgets for Transportation Conformity Purposes for New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this action, EPA is notifying the public that we have found the motor vehicle emissions budgets for $PM_{2.5}$ and NO_X in the submitted maintenance plan for the New York portions of the New York-Northern New Jersey-Long Island, NY–NJ–CT $PM_{2.5}$ nonattainment areas to be adequate for transportation conformity purposes. The transportation conformity rule requires that the EPA conduct a public process and make an affirmative decision on the adequacy of budgets before they can be used by metropolitan planning organizations (MPOs) in conformity determinations. As a result of our finding, the new 2009, 2017 and 2025 $PM_{2.5}$ budgets are applicable to nine of the ten counties in the New York Metropolitan Transportation Council planning area (excluding Putnam County) and Orange County in the Orange County Transportation Council planning area and must be used for all future transportation conformity determinations.

DATES: This finding is effective September 18, 2013.

FOR FURTHER INFORMATION CONTACT: Melanie Zeman, Air Programs Branch, Environmental Protection Agency—Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4022, *zeman.melanie@epa.gov.*

The finding and the response to comments will be available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

SUPPLEMENTARY INFORMATION:

Background

On June 27, 2013, New York State submitted a redesignation request and maintenance plan to EPA for the New York portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT $PM_{2.5}$ nonattainment areas. The purpose of New York's submittal was to request a redesignation to attainment for both the 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS) and submit a state implementation plan to provide for maintenance of the standard for the first ten years of a 20-year maintenance period. New York's request was pursuant to EPA's findings that that the New York area had attained the 1997 (75 FR 69589) and 2006 (77 FR 76867) $PM_{2.5}$ NAAQS based on ambient air quality monitoring data. New York's submittal included motor vehicle emissions budgets ("budgets") for 2009, 2017 and 2025 for use by the State's metropolitan planning organizations in making transportation conformity determinations. On July 15, 2013, EPA posted the availability of the budgets on our Web site for the purpose of soliciting public comments. The comment period closed on August 14, 2013, and we received no comments.

New York State developed these budgets for the 1997 annual $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS based on EPA's MOVES model. These budgets are for 2025, the last year of the maintenance plan as required, and two additional years, 2009 and 2017, for the purpose of establishing budgets for the near-term. New York also determined that budgets based on annual emissions of direct $PM_{2.5}$ and NO_X, a precursor, are appropriate for the 2006 24-hour standard because exceedences of the standard were not isolated to one particular season; therefore, the budgets being found adequate today will be used by transportation agencies to meet conformity requirements for both the annual and 24-hour standards.

The 2009 budgets were developed without an accompanying full emissions inventory. However, EPA believes that the 2009 budgets still meet all of the adequacy criteria, as described below. The 2009 budgets are consistent with attainment and maintenance of both the 1997 and 2006 $PM_{2.5}$ standards because of our earlier determinations that the New York portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT $PM_{2.5}$ nonattainment area had attained the standards based on monitored air quality that included the year 2009.

Adequacy Process

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the National Ambient Air Quality Standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We have described our process for determining the adequacy of submitted SIP budgets in 40 CFR 93.118(f). We have followed this rule in making our adequacy determination. The motor vehicle emissions budgets being found adequate today are listed in Table 1 and include direct $PM_{2.5}$ and its precursor, NO_X. EPA's finding will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

EPA Review

EPA's adequacy review of New York's submitted budgets indicates that the budgets meet the adequacy criteria set forth by 40 CFR 93.118(e)(4), as follows:

(i) *The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his or her designee) and was subject to a State public hearing:* The SIP revision was submitted to EPA by the Commissioner of the New York State Department of Environmental Conservation, who is the Governor's designee.

(ii) *Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among federal, State, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed:* New York State conducted an interagency consultation process involving EPA and USDOT, the New York State Department of Transportation and affected MPOs. All comments and concerns were addressed prior to the final submittal.

(iii) *The motor vehicle emissions budget(s) is clearly identified and precisely quantified:* The budgets were clearly identified and quantified and are presented here in Table 1.

(iv) *The motor vehicle emissions budget(s), when considered together with all other emissions sources, is*

consistent with applicable requirements for maintenance: The 2009, 2017 and 2025 budgets are less than the on-road mobile source inventory for 2007 that was shown to be consistent with attainment of the standards. The applicable state implementation plan demonstrates that the 2017 and 2025 budgets are consistent with maintenance when considered with all other sources for each respective year. The 2009 budgets were developed with all the information for the year 2009, including on-road activity in 2009. Because New York demonstrated attainment in this year to the applicable air quality standards, the 2009 budgets are therefore consistent with maintenance of the respective standards.

(v) *The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan revision or maintenance plan:* The budgets were developed from the on-road mobile source inventories, including all applicable state and Federal control measures. Inputs related to inspection and maintenance and fuels are consistent with New York State's Federally-approved control programs.

(vi) *Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see § 93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled):* The submitted maintenance plan establishes new 2009, 2017 and 2025 budgets to ensure continued maintenance of the standards; therefore, this is not applicable.

Adequacy Finding

Today's action is simply an announcement of a finding that we have already made. EPA Region 2 sent a letter to New York on August 19, 2013, stating that the 2009, 2017 and 2025 motor vehicle emissions budgets in New York's SIP for the New York $PM_{2.5}$ nonattainment areas are adequate because they are consistent with the required maintenance demonstration. In our letter we noted that there are existing approved and adequate budgets for 2009, but that the 2009 budgets contained in the submitted maintenance plans will be the most recent budgets in place to satisfy the latest Clean Air Act requirement and therefore will be the applicable 2009 budgets to be used in future transportation conformity determinations for analysis years prior to 2017.

TABLE 1—$PM_{2.5}$ MOTOR VEHICLE EMISSIONS BUDGETS FOR NEW YORK

[Tons per year]

New York Metropolitan Transportation Council & Orange County Transportation Council	Direct $PM_{2.5}$	NO_X
2009 Motor Vehicle Emissions Budget	5,516.75	106,020.09
2017 Motor Vehicle Emissions Budget	3,897.71	68,362.66
2025 Motor Vehicle Emissions Budget	3,291.09	51,260.81

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.

Authority: 42 U.S.C. 7401–7671 q.

Dated: August 19, 2013.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2013–21266 Filed 8–30–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2012–0294; FRL– 9900–47–Region 3]

Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Virginia has applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for final authorization and is authorizing Virginia's revisions through this immediate final action. EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments that oppose this authorization during the comment period, the decision to authorize Virginia's revisions to its hazardous waste program will take effect. If we receive comments that oppose this action we will publish a document in the **Federal Register** withdrawing the relevant portions of this rule, before they take effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize revisions to Virginia's program that were the subject of adverse comments.

DATES: This final authorization will become effective on November 4, 2013, unless EPA receives adverse written comments by October 3, 2013. If EPA receives any such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect as scheduled.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2012–0294, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: barbieri.andrea@epa.gov.*
3. *Mail:* Andrea Barbieri, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.
4. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may inspect and copy Virginia's application from 8:00 a.m. to 4:30 p.m., Monday through Friday at the following locations: Virginia Department of Environmental Quality, (VADEQ), Office of Regulatory Affairs, 629 East Main Street, Richmond, VA 23219, Phone number: (804) 698–4426, and EPA Region III Library, 2nd Floor, 1650

Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

Instructions: Direct your comments to Docket ID No. EPA–R03–RCRA–2012–0294. EPA's policy is that all comments received will be included in the public file without change and may be made available on line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The Federal *http://www.regulations.gov* Web site is an "anonymous access" system, which means that 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 *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public file 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 and any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Andrea Barbieri, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3374; email address: *barbieri.andrea@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States that have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program is revised to become more stringent or broader in scope, States must revise their programs and apply to EPA to authorize the revisions. Authorization of revisions to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other revisions occur. Most commonly, States must revise their programs because of revisions to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What decisions have we made in this rule?

EPA concludes that Virginia's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Virginia final authorization to operate its hazardous waste program with the revisions described in its application for program revisions, subject to the procedures described in section E, below. Virginia has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions for which Virginia has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

This decision serves to authorize revisions to Virginia's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which Virginia is being authorized by this action are already effective and are not changed by this action. Virginia has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

Perform inspections, and require monitoring, tests, analyses or reports;

Enforce RCRA requirements and suspend or revoke permits; and

Take enforcement actions regardless of whether Virginia has taken its own actions.

D. Why wasn't there a proposed rule before this rule?

EPA did not publish a proposal before this rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize Virginia's program revisions. If EPA receives comments that oppose this authorization, that document will serve as a proposal to authorize the revisions to Virginia's program that were the subject of adverse comment.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of Virginia's program revisions on the proposal mentioned in the previous section. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose the authorization of a particular revision to Virginia's hazardous waste program, we will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Virginia previously been authorized for?

Initially, Virginia received final authorization to implement its hazardous waste management program effective December 18, 1984 (49 FR 47391). EPA granted authorization for revisions to Virginia's regulatory program effective August 13, 1993 (58 FR 32855); September 29, 2000 (65 FR 46607); June 20, 2003 (68 FR 36925); July 10, 2006 (71 FR 27204); and July 30, 2008 (73 FR 44168).

G. What revisions are we authorizing with this action?

On December 18, 2012, Virginia submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Virginia's revision application includes various regulations that are equivalent to, and no less stringent than, revisions to the Federal hazardous waste program, as published in the Code of

Federal Regulations as of December 31, 2010.

We now make an immediate final decision subject to receipt of written comments that oppose this action that Virginia's hazardous waste program revisions satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Virginia's final authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

Virginia seeks authority to administer the Federal requirements that are listed in Table 1. Virginia incorporates by reference these Federal provisions, in accordance with the dates specified in Title 9, Virginia Administrative Code (9VAC 20–60–18). This Table lists the Virginia analogs that are being recognized as no less stringent than the analogous Federal requirements. The Virginia Waste Management Act (VWMA), enacted by the 1986 session of Virginia's General Assembly and recodifed in 1988 as Chapter 14, Title 10.1, Code of Virginia, forms the basis of the Virginia program. These regulatory references are to Title 9, Virginia Administrative Code (9 VAC) effective March 2, 2011.

TABLE 1—VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous Virginia authority
RCRA Cluster XVII		
Hazardous Waste and Used Oil; Correction to the Errors in the Code of Federal Regulations, Revision Checklist 214.	71 FR 40254, July 14, 2006	9 VAC §§ 20–60–18, 20–60–260 A, 20–60–261 A, 20–60–262 A, 20–60–264 A, 20–60–264 A, 20–60–265 A, 20–60–266 A, 20–60–268 A, 20–60–270 A, 20–60–273 A, 20–60–279 A.
Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes, Revision Checklist 215.	71 FR 42928, July 28, 2006	9 VAC §§ 20–60–18, 20–60–260 A, 20–60–261 A.
RCRA Cluster XVIII		
Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System to Produce Synthetic Gas, Revision Checklist 216.	73 FR 57, January 2, 2008	9 VAC §§ 20–60–18, 20–60–260 A, 20–60–261 A.
National Emission Standards for Hazardous Waste Air Pollutants; Standards for Hazardous Waste Combustors; Amendments, Revision Checklist 217.	73 FR 18970, April 8, 2008	9 VAC §§ 20–60–18, 20–60–264 A, 20–60–266 A.
Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019, Revision Checklist 218.	73 FR 31756, June 4, 2008	9 VAC §§ 20–60–18, 20–60–261 A.
RCRA Cluster XIX		
Academic Laboratories Generator Standards, Revision Checklist 220.	73 FR 72912, December 1, 2008.	9 VAC §§ 20–60–18, 20–60–261 A, 20–60–262 A.
Expansion of RCRA Comparable Fuel Exclusion, Revision Checklist 221 [2].	73 FR 77954, December 19, 2008.	9 VAC §§ 20–60–18, 20–60–261.
RCRA Cluster XX		
OECD Requirements; Export Shipments of Spend Lead-Acid Batteries, Revision Checklist 222.	75 FR 1236, January 8, 2010.	9 VAC §§ 20–60–18, 20–60–262 A, 20–60–263 A, 20–60–264 A, 20–60–265 A, 20–60–266 A.
Hazardous Waste Technical Corrections and Clarification, Revision Checklist 223.	75 FR 12989, March 18, 2010; as amended 75 FR 31716, June 4, 2010.	9 VAC §§ 20–60–260 A, 20–60–261 A, 20–60–262 A, 20–60–263 A, 20–60–264 A, 20–60–265 A, 20–60–266 A, 20–60–268 A, 20–60–270 A.
RCRA Cluster XXI		
Removal of Saccharin and Its Salts from the List of Hazardous Constituents, Revision Checklist 225.	75 FR 78918, December 17, 2010.	9 VAC §§ 20–60–18, 20–60–261 A, 20–60–268 A.
Academic Laboratories Generator Standards Technical Corrections, Revision Checklist 226.	75 FR 79304, December 20, 2010.	9 VAC §§ 20–60–18, 20–60–262 A.
Other		
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Final Rule.	71 FR 35395, June 20, 2006.	9 VAC §§ 20–60–18, 20–60–261 A.
Extension of Site-Specific Regulations for University Laboratories XL Projects.	71 FR 35547, June 21, 2006.	9 VAC §§ 20–60–18, 20–60–262 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	71 FR 43067, July 31, 2006	9 VAC §§ 20–60–18, 20–60–261 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	72 FR 43, January 3, 2007	9 VAC §§ 20–60–18, 20–60–261 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	72 FR 4645, February 1, 2007.	9 VAC §§ 20–60–18, 20–60–261 A.

TABLE 1—VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous Virginia authority
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion.	72 FR 31185 June 6, 2007	9 VAC §§ 20–60–18, 20–60–261 A.
Standards for Universal Waste Management; CFR Correction.	72 FR 35666, June 29, 2007.	9 VAC §§ 20–60–18, 20–60–273 A.

[1] A Revision Checklist is a document that addresses the specific revisions made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization Web page at *http://www.epa.gov/osw/laws-regs/state/index.htm.*

[2] Adopted changes to comparable fuel provisions amended on this date, not the emissions comparable fuel provisions that were subsequently withdrawn.

H. Where are the revised Virginia rules different from the Federal rules?

1. Virginia's Adoption of EPA's Site-Specific Delisting and Variance Decisions

In its regulations, Virginia has adopted EPA's decisions relative to the site-specific delistings published between June 20, 2006 and June 6, 2007 (71 FR 35395, 71 FR 35547, 71 FR 43067, 72 FR 43, 72 FR 4645, 72 FR 31185). EPA today is not authorizing Virginia to delist wastes. With regard to waste delisted as a hazardous waste by EPA, the authority of the Department of Environmental Quality is limited to recognition of the waste as a delisted waste in Virginia, and the supervision of waste management activities for the delisted waste when the activities occur within the Commonwealth of Virginia. Virginia is not authorized to delist wastes on behalf of the EPA, or to otherwise administer any case decision to issue, revoke, or continue a delisting of a waste by EPA.

2. Rules for Which Virginia Is Not Seeking Authorization

Virginia is not seeking authorization for the following RCRA revisions that are found in 40 CFR as of December 31, 2010:

(a) Virginia is not seeking authorization for the Revision to the Definition of Solid Waste rule (October 30, 2008, 73 FR 64668)

(b) Virginia is not seeking authorization for the Withdrawl of the Emission Comparable Fuel Exclusion (June 15, 2010, 75 FR 33712) because Virginia adopted the Expansion of the RCRA Comparable Fuel Exclusion (December 19, 2008, 73 FR 77954) without the emission comparable fuel exclusion provisions that were subsequently withdrawn in this rule.

I. Who handles permits after this authorization takes effect?

After this authorization, Virginia will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that we issued prior to the effective date of this authorization. Until such time as formal transfer of EPA permit responsibility to Virginia occurs and EPA terminates its permit, EPA and Virginia agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Virginia is not yet authorized.

J. How does this action affect Indian country (18 U.S.C. 115) in Virginia?

Virginia is not seeking authorization to operate the program on Indian lands, since there are no Federally-recognized Indian lands in Virginia.

K. What is codification and is EPA codifying Virginia's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart VV, for this authorization of Virginia's program revisions until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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). For the same reason, this action would not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally recognized tribes in the State of Virginia.

This action 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 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks that may disproportionately affect children. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be

inconsistent with applicable law for EPA, when it reviews a State authorization application to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 3701, et seq.) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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 document 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 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); this action will be effective November 4, 2013.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 12, 2013.

Shawn M. Garvin,

Regional Administrator, EPA Region III.

[FR Doc. 2013–21378 Filed 8–30–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. NHTSA–2013–0092]

List of Nonconforming Vehicles Decided To Be Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards (FMVSS) that NHTSA has decided to be eligible for importation. This list is published in an appendix to the agency's regulations that prescribe procedures for import eligibility decisions. The list has been revised to add all vehicles that NHTSA has decided to be eligible for importation since October 1, 2012, and to remove all previously listed vehicles that are now more than 25 years old and need no longer comply with all applicable FMVSS to be lawfully imported. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: The revised list of import eligible vehicles is effective on September 3, 2013.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA, (202) 366–5308.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made "on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under [49 U.S.C. 30141(c)]." The Secretary's authority to make these decisions has been delegated to NHTSA. The agency publishes notices of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR Part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242–43. In the notice, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

Regulatory Analyses and Notices

A. Executive Order 12866, Regulatory Planning and Review

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations about whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one 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 affects 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 the Executive Order. This rule will not have any of these effects and was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. The effect of this rule is not to impose new requirements. Instead it provides a summary compilation of decisions on import eligibility that have already been made and does not involve new decisions. This rule will not impose any additional burden on any person. Accordingly, the agency believes that the preparation of a regulatory evaluation is not warranted for this rule.

B. Environmental Impacts

We have not conducted an evaluation of the impacts of this rule under the National Environmental Policy Act. This rule does not impose any change that would result in any impacts to the quality of the human environment. Accordingly, no environmental assessment is required.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rule on small entities (5 U.S.C. Sec. 601 et seq.). I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act. The following is our statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). This rule will not have any significant economic impact on a substantial number of small businesses because the rule merely furnishes information by revising the list in the Code of Federal Regulations of vehicles for which import eligibility decisions have previously been made. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

D. Executive Order 13132, Federalism

Executive Order 13132 requires NHTSA 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." Executive Order 13132 defines the term "Policies that have federalism implications" 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, NHTSA may not issue a regulation that has 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, or NHTSA consults with State and local officials early in the process of developing the regulation.

This rule will have no 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 as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This rule will not result in additional expenditures by State, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule does not impose any new collection of information requirements for which a 5 CFR Part 1320 clearance must be obtained. DOT previously submitted to OMB and OMB approved the collection of information associated with the vehicle importation program in OMB Clearance No. 2127–0002.

G. Civil Justice Reform

Pursuant to Executive Order 12988, "Civil Justice Reform," we have considered whether this rule has any retroactive effect. We conclude that it will not have such an effect.

H. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you wish to do so, please comment on the extent to which this final rule effectively uses plain language principles.

I. National Technology Transfer and Advancement Act

Under the National Technology and Transfer and Advancement Act of 1995 (Pub. L. 104–113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments."

This rule does not require the use of any technical standards.

J. Privacy Act

Anyone is able to search the electronic form of all 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).

K. Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This rule is not subject to Executive Order 13045 because it is not "economically significant" as defined under Executive Order 12866, and does not concern an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

L. Notice and Comment

NHTSA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because this action does not impose any regulatory requirements. This rule

merely revises the list of vehicles not originally manufactured to conform to the FMVSS that NHTSA has decided to be eligible for importation into the United States since the last list was published in October, 2012.

In addition, so that the list of vehicles for which import eligibility decisions have been made may be included in the next edition of 49 CFR Parts 572 to 999, which is due for revision on October 1, 2013, good cause exists to dispense with the requirement in 5 U.S.C. 553(d) for the effective date of the rule to be delayed for at least 30 days following its publication.

List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, Part 593 of Title 49 of the Code of Federal Regulations is amended as follows:

PART 593—[AMENDED]

■ 1. The authority citation for part 593 continues to read as follows:

Authority: 49 U.S.C. 322 and 30141(b); delegation of authority at 49 CFR 1.95.

■ 2. Appendix A to Part 593 is revised to read as follows:

Appendix A to Part 593—List of Vehicles Determined To Be Eligible for Importation

(a) Each vehicle on the following list is preceded by a vehicle eligibility number. The importer of a vehicle admissible under any eligibility decision must enter that number on the HS–7 Declaration Form accompanying entry to indicate that the vehicle is eligible for importation.

(1) "VSA" eligibility numbers are assigned to all vehicles that are decided to be eligible for importation on the initiative of the Administrator under § 593.8.

(2) "VSP" eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(1), which establishes that a substantially similar U.S.-certified vehicle exists.

(3) "VCP" eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(2), which establishes that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

(b) Vehicles for which eligibility decisions have been made are listed alphabetically, first by make, then by model, then by model year.

(c) All hyphens used in the Model Year column mean "through" (for example, "1995–1999" means "1995 through 1999").

(d) The initials "MC" used in the Make column mean "Motorcycle."

(e) The initials "SWB" used in the Model Type column mean "Short Wheel Base."

(f) The initials "LWB" used in the Model Type column mean "Long Wheel Base."

(g) For vehicles with a European country of origin, the term "Model Year" ordinarily means calendar year in which the vehicle was produced.

(h) All vehicles are left-hand-drive (LHD) vehicles unless noted as RHD. The initials "RHD" used in the Model Type column mean "right-hand-drive."

(i) For vehicle models that have been determined to be eligible for importation based on a petition submitted under § 593.5(a)(1), which establishes that a substantially similar U.S.-certified vehicle exists, and no specific body style(s) are listed, only the body style(s) of that vehicle model that were U.S.-certified by the original manufacturer are eligible for importation. For example, if the original manufacturer manufactured both sedan and wagon body styles for the described model, but only certified the sedan for the U.S. market, the wagon body style would not be eligible for importation under that determination.

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS

VSA–80	(a) All passenger cars less than 25 years old that were manufactured before September 1, 1989;
	(b) All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208;
	(c) All passenger cars manufactured on or after September 1, 1996, and before September 1, 2002, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS No. 208, and that comply with FMVSS No. 214;
	(d) All passenger cars manufactured on or after September 1, 2002, and before September 1, 2007, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS No. 208, and that comply with FMVSS Nos. 201, 214, 225, and 401;
	(e) All passenger cars manufactured on or after September 1, 2007, and before September 1, 2008, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 138, 201, 208, 213, 214, 225, and 401;
	(f) All passenger cars manufactured on or after September 1, 2008 and before September 1, 2009 that, as originally manufactured, comply with FMVSS Nos. 110, 118, 138, 201, 202a, 206, 208, 213, 214, 225, and 401;
	(g) All passenger cars manufactured on or after September 1, 2009 and before September 1, 2010 that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, 225, and 401;
	(h) All passenger cars manufactured on or after September 1, 2010 and before September 1, 2011 that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, and 225;
	(i) All passenger cars manufactured on or after September 1, 2011 and before September 1, 2017 that, as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225.
VSA–81	(a) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that are less than 25 years old and that were manufactured before September 1, 1991;
	(b) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on and after September 1, 1991, and before September 1, 1993 and that, as originally manufactured, comply with FMVSS Nos. 202 and 208;

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS—Continued

	(c) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on or after September 1, 1993, and before September 1, 1998, and that, as originally manufactured, comply with FMVSS Nos. 202, 208, and 216; (d) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on or after September 1, 1998, and before September 1, 2002, and that, as originally manufactured, comply with FMVSS Nos. 202, 208, 214, and 216; (e) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on or after September 1, 2002, and before September 1, 2007, and that, as originally manufactured, comply with FMVSS Nos. 201, 202, 208, 214, and 216, and, insofar as it is applicable, with FMVSS No. 225; (f) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2007 and before September 1, 2008, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 201, 202, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (g) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2008 and before September 1, 2009, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (h) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2009 and before September 1, 2011, that, as originally manufactured, comply with FMVSS Nos. 118, 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (i) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2011 and before September 1, 2012, that, as originally manufactured, comply with FMVSS Nos. 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (j) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2012 and before September 1, 2017, that, as originally manufactured, comply with FMVSS Nos. 201, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138, 222, and 225;
VSA–82	All multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 4,536 kg (10,000 lb) that are less than 25 years old.
VSA–83	All trailers and motorcycles less than 25 years old.

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Acura	Legend		1989	77		
Acura	Legend		1990–1992	305		
Alfa Romeo	164		1989	196		
Alfa Romeo	164		1991	76		
Alfa Romeo	164		1994	156		
Alfa Romeo	Spider		1992	503		
Alpina	B11	Sedan	1989–1994			48
Alpina	B12	Coupe	1989–1996			43
Alpina	B12 5.0	Sedan	1989–1994			41
Alpina	B5 series (manufactured before 9/1/06)		2005–2007			53
Al-Spaw	EMA Mobile Stage Trailer		2009			42
Aston Martin	Vanquish		2002–2004	430		
Aston Martin	Vantage		2006–2007	530		
Audi	80		1989	223		
Audi	100		1989	93		
Audi	100		1993	244		
Audi	100		1990–1992	317		
Audi	A4		1996–2000	352		
Audi	A4, RS4, S4	8D	2000–2001	400		
Audi	A6		1998–1999	332		
Audi	A8		2000	424		
Audi	A8		1997–2000	337		
Audi	A8 Avant Quattro		1996	238		
Audi	RS6 & RS Avant		2003	443		
Audi	S6		1996	428		
Audi	S8		2000	424		
Audi	TT		2000–2001	364		
Bentley	Arnage (manufactured 1/1/01–12/31/01)		2001	473		
Bentley	Azure (LHD & RHD)		1998	485		
Bimota (MC)	DB4		2000	397		
Bimota (MC)	SB6		1994–1999	523		
Bimota (MC)	SB8		1999–2000	397		
BMW	3 Series		1998	462		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
BMW	3 Series		1999	379		
BMW	3 Series		2000	356		
BMW	3 Series		2001	379		
BMW	3 Series		1992–1994	550		
BMW	3 Series		1995–1997	248		
BMW	3 Series		2003–2004	487		
BMW	318i, 318iA		1989		23	
BMW	320i		1990–1991	283		
BMW	325i		1991	96		
BMW	325i		1992–1996	197		
BMW	325i, 325iA		1989		30	
BMW	325iS, 325iSA		1989		31	
BMW	325iX		1990	205		
BMW	325iX, 325iXA		1989		33	
BMW	5 Series		2000	345		
BMW	5 Series		1990–1995	194		
BMW	5 Series		1995–1997	249		
BMW	5 Series		1998–1999	314		
BMW	5 Series		2000–2002	414		
BMW	5 Series		2003–2004	450		
BMW	5 Series (manufactured prior to 9/1/2006).		2005–2007	555		
BMW	520iA		1989	9		
BMW	525i		1989	5		
BMW	635CSi, 635CSiA		1989		27	
BMW	7 Series		1992	232		
BMW	7 Series		1990–1991	299		
BMW	7 Series		1993–1994	299		
BMW	7 Series		1995–1999	313		
BMW	7 Series		1999–2001	366		
BMW	735i, 735iA		1989		28	
BMW	8 Series		1991–1995	361		
BMW	850 Series		1997	396		
BMW	850i		1990	10		
BMW	All other passenger car models except those in the M1 and Z1 series.		1989		78	
BMW	M3		1989		35	
BMW	M3 (manufactured prior to 9/1/06)		2006	520		
BMW	X5 (manufactured 1/1/03–12/31/04)		2003–2004	459		
BMW	Z3		1996–1998	260		
BMW	Z3 (European market)		1999	483		
BMW	Z4		2010	553		
BMW	Z8		2002	406		
BMW	Z8		2000–2001	350		
BMW (MC)	C1		2000–2003			40
BMW (MC)	K1		1990–1993	228		
BMW (MC)	K100		1989–1992	285		
BMW (MC)	K1100, K1200		1993–1998	303		
BMW (MC)	K1200 GT		2003	556		
BMW (MC)	K75		1996			36
BMW (MC)	K75S		1989–1995	229		
BMW (MC)	R1100		1994–1997	231		
BMW (MC)	R1100		1998–2001	368		
BMW (MC)	R1100 S		2002	557		
BMW (MC)	R1100RS		1994	177		
BMW (MC)	R1150GS		2000	453		
BMW (MC)	R1200C		1998–2001	359		
BMW (MC)	R80, R100		1989–1995	295		
Buell (MC)	All Models		1995–2002	399		
Cadillac	DeVille		1994–1999	300		
Cadillac	DeVille (manufactured 8/1/99–12/31/00)		2000	448		
Cadillac	Seville		1991	375		
Cagiva (MC)	Gran Canyon 900		1999	444		
Carrocerias	Cimarron trailer		2006–2007			37
Chevrolet	400SS		1995	150		
Chevrolet	Astro Van		1997	298		
Chevrolet	Blazer (plant code of "K" or "2" in the 11th position of the VIN).		1997	349		
Chevrolet	Blazer (plant code of "K" or "2" in the 11th position of the VIN).		2001	461		
Chevrolet	Camaro		1999	435		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Chevrolet	Cavalier		1997	369		
Chevrolet	Corvette		1992	365		
Chevrolet	Corvette	Coupe	1999	419		
Chevrolet	Corvette		2007	544		
Chevrolet	Suburban		2005	541		
Chevrolet	Suburban		1989–1991	242		
Chevrolet	Tahoe		2000	504		
Chevrolet	Tahoe		2001	501		
Chevrolet	Trailblazer (manufactured prior to 9/1/07 for sale in the Kuwaiti market).		2007	514		
Chrysler	Daytona		1992	344		
Chrysler	Grand Voyager		1998	373		
Chrysler	LHS (Mexican market)		1996	276		
Chrysler	Shadow (Middle Eastern market)		1989	216		
Chrysler	Town and Country		1993	273		
Citroen	XM		1990–1992			1
Dodge	Durango		2007	534		
Dodge	Ram		1994–1995	135		
Dodge	Ram 1500 Laramie Crew Cab		2009	535		
Ducati (MC)	600SS		1992–1996	241		
Ducati (MC)	748		1999–2003	421		
Ducati (MC)	748 Biposto		1996–1997	220		
Ducati (MC)	888		1993	500		
Ducati (MC)	900		2001	452		
Ducati (MC)	900SS		1991–1996	201		
Ducati (MC)	916		1999–2003	421		
Ducati (MC)	996 Biposto		1999–2001	475		
Ducati (MC)	996R		2001–2002	398		
Ducati (MC)	MH900E		2001–2002	524		
Ducati (MC)	Monster 600		2001	407		
Ducati (MC)	ST4S		1999–2005	474		
Eagle	Vision		1994	323		
Ferrari	328 (all models)		1989		37	
Ferrari	348 TB		1992	86		
Ferrari	348 TS		1992	161		
Ferrari	360		2001	376		
Ferrari	360	Spider & Coupe	2003	410		
Ferrari	360 (manufactured after 9/31/02)		2002	433		
Ferrari	360 (manufactured before 9/1/02)		2002	402		
Ferrari	360 Modena		1999–2000	327		
Ferrari	360 Series		2004	446		
Ferrari	456		1995	256		
Ferrari	456 GT & GTA		1999	445		
Ferrari	456 GT & GTA		1997–1998	408		
Ferrari	512 TR		1993	173		
Ferrari	550		2001	377		
Ferrari	550 Marinello		1997–1999	292		
Ferrari	575		2002–2003	415		
Ferrari	575		2004–2005	507		
Ferrari	599 (manufactured prior to 9/1/06)		2006	518		
Ferrari	612 Scaglietti		2005	545		
Ferrari	Enzo		2003–2004	436		
Ferrari	F355		1995	259		
Ferrari	F355		1999	391		
Ferrari	F355		1996–1998	355		
Ferrari	F430 (manufactured prior to 9/1/06)		2005–2006	479		
Ferrari	F50		1995	226		
Ferrari	Mondial (all models)		1989		74	
Ferrari	Testarossa		1989		39	
Ford	Bronco (manufactured in Venezuela)		1995–1996	265		
Ford	Escape (manufactured prior to 9/1/2006).		2007	551		
Ford	Escort (Nicaraguan market)		1996	322		
Ford	Escort RS Cosworth		1994–1995			9
Ford	Explorer (manufactured in Venezuela)		1991–1998	268		
Ford	F150		2000	425		
Ford	F–150 Crew Cab (manufactured for sale in the Mexican market).		2004	548		
Ford	Mustang		1993	367		
Ford	Mustang		1997	471		
Ford	Windstar		1995–1998	250		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Freightliner	FLD12064ST		1991–1996	179		
Freightliner	FTLD112064SD		1991–1996	178		
GMC	Suburban		1992–1994	134		
Harley Davidson (MC).	FL Series		2010	528		
Harley Davidson (MC).	FX, FL, XL & VR Series		2004	422		
Harley Davidson (MC).	FX, FL, XL & VR Series		2008	517		
Harley Davidson (MC).	FX, FL, XL & VR Series		2009	522		
Harley Davidson (MC).	FX, FL, XL Series		1997	202		
Harley Davidson (MC).	FX, FL, XL Series		1998	253		
Harley Davidson (MC).	FX, FL, XL Series		1999	281		
Harley Davidson (MC).	FX, FL, XL Series		2000	321		
Harley Davidson (MC).	FX, FL, XL Series		2001	362		
Harley Davidson (MC).	FX, FL, XL Series		2002	372		
Harley Davidson (MC).	FX, FL, XL Series		2003	393		
Harley Davidson (MC).	FX, FL, XL Series		2005	472		
Harley Davidson (MC).	FX, FL, XL Series		2006	491		
Harley Davidson (MC).	FX, FL, XL, & VR Series		2007	506		
Harley Davidson (MC).	FXSTC Soft Tail Custom		2007	499		
Harley Davidson (MC).	VRSCA		2002	374		
Harley Davidson (MC).	VRSCA		2003	394		
Harley Davidson (MC).	VRSCA		2004	422		
Hatty	45 ft double axle trailer		1999–2000			38
Heku	750 KG boat trailer		2005			33
Hobby	Exclusive 650 KMFE Trailer		2002–2003			29
Honda	Accord		1991	280		
Honda	Accord		1992–1999	319		
Honda	Accord (RHD)	Sedan & wagon	1994–1997	451		
Honda	Civic DX	Hatchback	1989	128		
Honda	CRV		2002	447		
Honda	CR–V		2005	489		
Honda	Prelude		1989	191		
Honda	Prelude		1994–1997	309		
Honda (MC)	CB 750 (CB750F2T)		1996	440		
Honda (MC)	CBR 250		1989–1994			22
Honda (MC)	RVF 400		1994–2000	358		
Honda (MC)	VF750		1994–1998	290		
Honda (MC)	VFR 400		1994–2000	358		
Honda (MC)	VFR 400, RVF 400		1989–1993			24
Honda (MC)	VFR750		1990	34		
Honda (MC)	VFR750		1991–1997	315		
Honda (MC)	VFR800		1998–1999	315		
Honda (MC)	VT600		1991–1998	294		
Hyundai	Elantra		1992–1995	269		
Hyundai	XG350		2004	494		
Ifor Williams	LM85G trailer		2005			49
Jaguar	Sovereign		1993	78		
Jaguar	S-Type		2000–2002	411		
Jaguar	XJ8		2002	536		
Jaguar	XJS		1991	175		
Jaguar	XJS		1992	129		
Jaguar	XJS		1994–1996	195		
Jaguar	XJS, XJ6		1989–1990	336		
Jaguar	XK–8		1998	330		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Jeep	Cherokee		1993	254		
Jeep	Cherokee (European market)		1991	211		
Jeep	Cherokee (LHD & RHD)		1994	493		
Jeep	Cherokee (LHD & RHD)		1995	180		
Jeep	Cherokee (LHD & RHD)		1996	493		
Jeep	Cherokee (LHD & RHD)		1997–1998	516		
Jeep	Cherokee (LHD & RHD)		1997–2001	515		
Jeep	Cherokee (Venezuelan market)		1992	164		
Jeep	Grand Cherokee		1994	404		
Jeep	Grand Cherokee		1997	431		
Jeep	Grand Cherokee		2001	382		
Jeep	Grand Cherokee (LHD—Japanese market).		1997	389		
Jeep	Liberty		2002	466		
Jeep	Liberty		2005	505		
Jeep	Liberty (Mexican market)		2004	457		
Jeep	Wrangler		1993	217		
Jeep	Wrangler		1995	255		
Jeep	Wrangler		1998	341		
Jeep	Wrangler (manufactured for sale in the Mexican market).		2003	547		
Jeep	Wrangler (RHD)		2000–2003			50
Kawasaki (MC)	EL250		1992–1994	233		
Kawasaki (MC)	Ninja ZX–6R		2002			44
Kawasaki (MC)	VN1500–P1/P2 series		2003	492		
Kawasaki (MC)	ZR750		2000–2003	537		
Kawasaki (MC)	ZX400		1989–1997	222		
Kawasaki (MC)	ZX6, ZX7, ZX9, ZX10, ZX11		1989–1999	312		
Kawasaki (MC)	ZX600		1989–1998	288		
Kawasaki (MC)	ZZR1100		1993–1998	247		
Ken-Mex	T800		1990–1996	187		
Kenworth	T800		1992	115		
Komet	Standard, Classic & Eurolite trailer		2000–2005	477		
KTM (MC)	Duke II		1995–2000	363		
Lamborghini	Diablo	Coupe	1997			26
Lamborghini	Diablo (except 1997 Coupe)		1996–1997	416		
Lamborghini	Gallardo (manufactured 1/1/04–12/31/04).		2004	458		
Lamborghini	Gallardo (manufactured 1/1/06–8/31/06)		2006	508		
Lamborghini	Murcielago	Roadster	2005	476		
Land Rover	Defender 110		1993	212		
Land Rover	Defender 90	VIN & Body Limited	1994–1995	512		
Land Rover	Defender 90 (manufactured before 9/1/97) and VIN "SALDV224*VA" or "SALDV324*VA".		1997	432		
Land Rover	Discovery		1994–1998	338		
Land Rover	Discovery (II)		2000	437		
Land Rover	Range Rover		2004	509		
Land Rover	Range Rover		2006	538		
Lexus	GS300		1998	460		
Lexus	GS300		1993–1996	293		
Lexus	RX300		1998–1999	307		
Lexus	SC300		1991–1996	225		
Lexus	SC400		1991–1996	225		
Lincoln	Mark VII		1992	144		
M&V	Type NS4G31 trailer		2008–2010			46
Magni (MC)	Australia, Sfida		1996–1999	264		
Mazda	MPV		2000	413		
Mazda	MX–5 Miata		1990–1993	184		
Mazda	RX–7		1989–1995	279		
Mazda	Xedos 9		1995–2000	351		
Mercedes-Benz	190 D	201.126	1989		54	
Mercedes-Benz	190 D (2.2)	201.122	1989		54	
Mercedes-Benz	190 E	201.028	1989		54	
Mercedes-Benz	190 E	201.028	1990	22		
Mercedes-Benz	190 E	201.036	1990	104		
Mercedes-Benz	190 E	201.024	1991	45		
Mercedes-Benz	190 E	201.028	1992	71		
Mercedes-Benz	190 E	201.018	1992	126		
Mercedes-Benz	190 E		1993	454		
Mercedes-Benz	190 E (2.3)	201.024	1989		54	

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Mercedes-Benz	190 E (2.6)	201.029	1989		54	
Mercedes-Benz	190 E (2.6) 16	201.034	1989		54	
Mercedes-Benz	200 E	124.021	1989	11		
Mercedes-Benz	200 E	124.012	1991	109		
Mercedes-Benz	200 E	124.019	1993	75		
Mercedes-Benz	200 TE	124.081	1989	3		
Mercedes-Benz	220 E		1993	168		
Mercedes-Benz	220 TE	Station Wagon	1993–1996	167		
Mercedes-Benz	230 CE	124.043	1991	84		
Mercedes-Benz	230 CE	123.043	1992	203		
Mercedes-Benz	230 E	124.023	1989	20		
Mercedes-Benz	230 E	124.023	1990	19		
Mercedes-Benz	230 E	124.023	1991	74		
Mercedes-Benz	230 E	124.023	1993	127		
Mercedes-Benz	230 TE	124.083	1989	2		
Mercedes-Benz	250 D		1992	172		
Mercedes-Benz	250 E		1990–1993	245		
Mercedes-Benz	260 E	124.026	1989		55	
Mercedes-Benz	260 E	124.026	1992	105		
Mercedes-Benz	260 SE	126.020	1989	28		
Mercedes-Benz	280 E		1993	166		
Mercedes-Benz	300 CE	124.050	1989		55	
Mercedes-Benz	300 CE	124.051	1990	64		
Mercedes-Benz	300 CE	124.051	1991	83		
Mercedes-Benz	300 CE	124.050	1992	117		
Mercedes-Benz	300 CE	124.061	1993	94		
Mercedes-Benz	300 D Turbo	124.193	1989		55	
Mercedes-Benz	300 DT	124.133	1989		55	
Mercedes-Benz	300 E	124.030	1989		55	
Mercedes-Benz	300 E	124.031	1992	114		
Mercedes-Benz	300 E 4-Matic		1990–1993	192		
Mercedes-Benz	300 SD	126.120	1989		53	
Mercedes-Benz	300 SE	126.024	1989		53	
Mercedes-Benz	300 SE	126.024	1990	68		
Mercedes-Benz	300 SEL	126.025	1989		53	
Mercedes-Benz	300 SEL	126.025	1990	21		
Mercedes-Benz	300 SL	107.041	1989	7		
Mercedes-Benz	300 SL	129.006	1992	54		
Mercedes-Benz	300 TE	124.090	1989		55	
Mercedes-Benz	300 TE	124.090	1990	40		
Mercedes-Benz	300 TE		1992	193		
Mercedes-Benz	320 CE		1993	310		
Mercedes-Benz	320 SL		1992–1993	142		
Mercedes-Benz	350 CLS		2004			45
Mercedes-Benz	380 SE	126.043	1989		53	
Mercedes-Benz	380 SE	126.032	1989		53	
Mercedes-Benz	380 SEL	126.033	1989		53	
Mercedes-Benz	380 SL	107.045	1989		44	
Mercedes-Benz	380 SLC	107.025	1989		44	
Mercedes-Benz	400 SE		1992–1994	296		
Mercedes-Benz	420 E		1993	169		
Mercedes-Benz	420 SE	126.034	1989		53	
Mercedes-Benz	420 SE		1990–1991	230		
Mercedes-Benz	420 SEC		1990	209		
Mercedes-Benz	420 SEL	126.035	1989		53	
Mercedes-Benz	420 SEL	126.035	1990	48		
Mercedes-Benz	450 SLC	107.024	1989		44	
Mercedes-Benz	500 E	124.036	1991	56		
Mercedes-Benz	500 SE		1990	154		
Mercedes-Benz	500 SE	140.050	1991	26		
Mercedes-Benz	500 SEC	126.044	1989		53	
Mercedes-Benz	500 SEC	126.044	1990	66		
Mercedes-Benz	500 SEL	126.037	1989		53	
Mercedes-Benz	500 SEL		1990	153		
Mercedes-Benz	500 SEL	126.037	1991	63		
Mercedes-Benz	500 SL	129.066	1989	23		
Mercedes-Benz	500 SL	107.046	1989		44	
Mercedes-Benz	500 SL	126.066	1991	33		
Mercedes-Benz	500 SL	129.006	1992	60		
Mercedes-Benz	560 SEC	126.045	1989		53	
Mercedes-Benz	560 SEC	126.045	1990	141		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Mercedes-Benz	560 SEC		1991	333		
Mercedes-Benz	560 SEL	126.039	1989		53	
Mercedes-Benz	560 SEL	126.039	1990	89		
Mercedes-Benz	560 SEL	140	1991	469		
Mercedes-Benz	560 SL	107.048	1989		44	
Mercedes-Benz	600 SEC	Coupe	1993	185		
Mercedes-Benz	600 SEL	140.057	1993–1998	271		
Mercedes-Benz	600 SL	129.076	1992	121		
Mercedes-Benz	All other passenger car models except Model ID 114 and 115 with sales designations "long," "station wagon," or "ambulance".		1989		77	
Mercedes-Benz	C 320	203	2001–2002	441		
Mercedes-Benz	C Class		1994–1999	331		
Mercedes-Benz	C Class	203	2000–2001	456		
Mercedes-Benz	C Class (manufactured prior to 9/1/2006).	W203	2003–2006	521		
Mercedes-Benz	CL 500		1998	277		
Mercedes-Benz	CL 500		1999–2001	370		
Mercedes-Benz	CL 600		1999–2001	370		
Mercedes-Benz	CLK 320		1998	357		
Mercedes-Benz	CLK Class		1999–2001	380		
Mercedes-Benz	CLK Class	209	2002–2005	478		
Mercedes-Benz	CLS Class (manufactured prior to 9/1/06).		2006	532		
Mercedes-Benz	E 200		1994	207		
Mercedes-Benz	E 200		1995–1998	278		
Mercedes-Benz	E 220		1994–1996	168		
Mercedes-Benz	E 250		1994–1995	245		
Mercedes-Benz	E 280		1994–1996	166		
Mercedes-Benz	E 320		1994–1998	240		
Mercedes-Benz	E 320	Station Wagon	1994–1999	318		
Mercedes-Benz	E 320	211	2002–2003	418		
Mercedes-Benz	E 420		1994–1996	169		
Mercedes-Benz	E 500		1994	163		
Mercedes-Benz	E 500		1995–1997	304		
Mercedes-Benz	E Class	W210	1996–2002	401		
Mercedes-Benz	E Class	211	2003–2004	429		
Mercedes-Benz	E Series		1991–1995	354		
Mercedes-Benz	G Class	463 Chassis	1991			51
Mercedes-Benz	G Class LWB	463 Chassis	2006–2007	527		
Mercedes-Benz	G-Class	463 Chassis, LWB	2005	549		
Mercedes-Benz	G-Wagon	463	1996			11
Mercedes-Benz	G-Wagon	463	1997			15
Mercedes-Benz	G-Wagon	463	1998			16
Mercedes-Benz	G-Wagon	463	1999–2000			18
Mercedes-Benz	G-Wagon 300 GE LWB	463.228	1993			3
Mercedes-Benz	G-Wagon 300 GE LWB	463.228	1994			5
Mercedes-Benz	G-Wagon 300 GE LWB	463.228	1990–1992			5
Mercedes-Benz	G-Wagon 320 LWB	463	1995			6
Mercedes-Benz	G-Wagon 5 DR LWB	463	2001			21
Mercedes-Benz	G-Wagon LWB	463 5 DR	2002	392		
Mercedes-Benz	G-Wagon LWB V–8	463	1992–1996			13
Mercedes-Benz	G-Wagon SWB	463 Cabriolet & 3DR.	2004			28
Mercedes-Benz	G-Wagon SWB	463	2005			31
Mercedes-Benz	G-Wagon SWB	463	1990–1996			14
Mercedes-Benz	G-Wagon SWB	463 Cabriolet & 3DR.	2001–2003			25
Mercedes-Benz	G-Wagon SWB (manufactured before 9/1/06).	463 Cabriolet & 3DR.	2006			35
Mercedes-Benz	Maybach		2004	486		
Mercedes-Benz	S 280	140.028	1994	85		
Mercedes-Benz	S 320		1994–1998	236		
Mercedes-Benz	S 420		1994–1997	267		
Mercedes-Benz	S 500		1994–1997	235		
Mercedes-Benz	S 500		2000–2001	371		
Mercedes-Benz	S 600	Coupe	1994	185		
Mercedes-Benz	S 600		1995–1999	297		
Mercedes-Benz	S 600		2000–2001	371		
Mercedes-Benz	S 600L		1994	214		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Mercedes-Benz	S Class		1993	395		
Mercedes-Benz	S Class	140	1991–1994	423		
Mercedes-Benz	S Class		1995–1998	342		
Mercedes-Benz	S Class		1998–1999	325		
Mercedes-Benz	S Class	W220	1999–2002	387		
Mercedes-Benz	S Class	220	2002–2004	442		
Mercedes-Benz	S Class (manufactured prior to 9/1/2006).		2005–2006	525		
Mercedes-Benz	SE Class		1992–1994	343		
Mercedes-Benz	SEL Class	140	1992–1994	343		
Mercedes-Benz	SL Class		1993–1996	329		
Mercedes-Benz	SL Class	W129	1997–2000	386		
Mercedes-Benz	SL Class	R230	2001–2002			19
Mercedes-Benz	SL Class (European market)	230	2003–2005	470		
Mercedes-Benz	SLK		1997–1998	257		
Mercedes-Benz	SLK		2000–2001	381		
Mercedes-Benz	SLK Class (manufactured between 8/31/04 and 8/31/06).	171 Chassis	2005–2006	511		
Mercedes-Benz	SLR (manufactured prior to 9/1/2006)		2005–2006	558		
Mercedes-Benz (truck).	Sprinter		2001–2005	468		
Mini	Cooper (European market)	Convertible	2005	482		
Mitsubishi	Galant Super Salon		1989	13		
Moto Guzzi (MC)	California		2000–2001	495		
Moto Guzzi (MC)	California EV		2002	403		
Moto Guzzi (MC)	Daytona		1993	118		
Moto Guzzi (MC)	Daytona RS		1996–1999	264		
MV Agusta (MC)	F4		2000	420		
Nissan	GTS & GTR (RHD) a.k.a. "Skyline" manufactured 1/96–6/98.	R33	1996–1998			32
Nissan	Maxima		1989	138		
Nissan	Pathfinder		2002	412		
Nissan	Pathfinder		1989–1995	316		
Peugeot	405		1989	65		
Plymouth	Voyager		1996	353		
Pontiac	Firebird Trans Am		1995	481		
Pontiac (MPV)	Trans Sport		1993	189		
Porsche	911	Coupe	1989		56	
Porsche	911	Cabriolet	1989		56	
Porsche	911		1991	526		
Porsche	911	997	2009	542		
Porsche	911		1997–2000	346		
Porsche	911 (996) Carrera		2002–2004	439		
Porsche	911 (996) GT3		2004	438		
Porsche	911 C4		1990	29		
Porsche	911 Carrera		1989		56	
Porsche	911 Carrera		1993	165		
Porsche	911 Carrera		1994	103		
Porsche	911 Carrera		1995–1996	165		
Porsche	911 Carrera (manufactured prior to 9/1/06).	Cabriolet	2005–2006	513		
Porsche	911 Carrera (manufactured prior to 9/1/06).		2005–2006	531		
Porsche	911 Carrera 2 & Carrera 4		1992	52		
Porsche	911 Targa		1989		56	
Porsche	911 Turbo		1989		56	
Porsche	911 Turbo		1992	125		
Porsche	911 Turbo		2001	347		
Porsche	924	Coupe	1989		59	
Porsche	924 S		1989		59	
Porsche	924 Turbo	Coupe	1989		59	
Porsche	928	Coupe	1989		60	
Porsche	928		1991–1996	266		
Porsche	928		1993–1998	272		
Porsche	928 GT		1989		60	
Porsche	928 S	Coupe	1989		60	
Porsche	928 S4		1989		60	
Porsche	928 S4		1990	210		
Porsche	944	Coupe	1989		61	
Porsche	944 S	Coupe	1989		61	
Porsche	944 S	Cabriolet	1990	97		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Porsche	944 S2 (2-door)	Hatchback	1990	152		
Porsche	944 Turbo	Coupe	1989		61	
Porsche	946 Turbo		1994	116		
Porsche	All other passenger car models except Model 959.		1989		79	
Porsche	Boxster		1997–2001	390		
Porsche	Boxster (manufactured before 9/1/02)		2002	390		
Porsche	Carrera GT		2004–2005	463		
Porsche	Carrera Series	964	1992	546		
Porsche	Cayenne		2003–2004	464		
Porsche	Cayenne (manufactured prior to 9/1/06)		2006	519		
Porsche	Cayenne S		2009	543		
Porsche	GT2		2001			20
Porsche	GT2		2002	388		
Porsche	GT3 RS		2012	552		
Rice	Beaufort Double		1991	529		
Rolls Royce	Bentley		1989	340		
Rolls Royce	Bentley Brooklands		1993	186		
Rolls Royce	Bentley Continental R		1990–1993	258		
Rolls Royce	Bentley Turbo R		1995	243		
Rolls Royce	Bentley Turbo R		1992–1993	291		
Rolls Royce	Phantom		2004	455		
Saab	9.3		2003	426		
Saab	900 S		1989	270		
Saab	900 SE		1995	213		
Saab	900 SE		1990–1994	219		
Saab	900 SE		1996–1997	219		
Saab	9000		1994	334		
Smart Car	Fortwo coupe & cabriolet (incl. trim levels passion, pulse, & pure).		2005			30
Smart Car	Fortwo coupe & cabriolet (incl. trim levels passion, pulse, & pure).		2002–2004			27
Smart Car	Fortwo coupe & cabriolet (incl. trim levels passion, pulse, & pure) manufactured before 9/1/06.		2006			34
Smart Car	Fortwo coupe & cabriolet (incl. trim levels passion, pulse, & pure) manufactured before 9/1/06.		2007			39
Subaru	Forester		2006–2007	510		
Suzuki (MC)	GSF 750		1996–1998	287		
Suzuki (MC)	GSX1300R a.k.a. "Hayabusa"		1999–2006	484		
Suzuki (MC)	GSX1300R a.k.a. "Hayabusa"		2007–2011	533		
Suzuki (MC)	GSX–R 1100		1989–1997	227		
Suzuki (MC)	GSX–R 750		1989–1998	275		
Suzuki (MC)	GSX–R 750		1999–2003	417		
Thule	3008BL boat trailer		2011			52
Toyota	4-Runner		1998	449		
Toyota	Avalon		1995–1998	308		
Toyota	Camry		1989	39		
Toyota	Land Cruiser		1989	101		
Toyota	Land Cruiser		1990–1996	218		
Toyota	Land Cruiser (manufactured prior to 9/1/2006).	IFS 100 series	1999–2006	539		
Toyota	MR2		1990–1991	324		
Toyota	Previa		1991–1992	326		
Toyota	Previa		1993–1997	302		
Toyota	RAV4		1996	328		
Toyota	RAV4		2005	480		
Triumph (MC)	Thunderbird		1995–1999	311		
Vespa (MC)	ET2, ET4		2001–2002	378		
Vespa (MC)	LX and PX		2004–2005	496		
Volkswagen	Bora		1999	540		
Volkswagen	Eurovan		1993–1994	306		
Volkswagen	Golf		2005	502		
Volkswagen	Golf III		1993	92		
Volkswagen	Golf Rallye		1989	467		
Volkswagen	GTI (Canadian market)		1991	149		
Volkswagen	Jetta		1994–1996	274		
Volkswagen	Passat	4-door Sedan	1992	148		
Volkswagen	Passat	Wagon & Sedan	2004	488		
Volkswagen	Transporter		1989	284		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model years(s)	VSP	VSA	VCP
Volkswagen	Transporter		1990	251		
Volkswagen	Transporter		1991	554		
Volvo	740 GL		1992	137		
Volvo	850 Turbo		1995–1998	286		
Volvo	940 GL		1992	137		
Volvo	940 GL		1993	95		
Volvo	945 GL	Wagon	1994	132		
Volvo	960	Sedan & Wagon	1994	176		
Volvo	C70		2000	434		
Volvo	S70		1998–2000	335		
Yamaha (MC)	Drag Star 1100		1999–2007	497		
Yamaha (MC)	FJ1200 (4 CR)		1991	113		
Yamaha (MC)	FJR 1300		2002			23
Yamaha (MC)	R1		2000	360		
Yamaha (MC)	Virago		1990–1998	301		

Issued on: August 27, 2013.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–21308 Filed 8–30–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120109034–2171–01]

RIN 0648–XC823

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trip Limit Adjustments for the Common Pool Fishery

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: This action decreases the possession limit for Southern New England/Mid-Atlantic winter flounder and Gulf of Maine haddock for Northeast multispecies common pool vessels for the remainder of the 2013 fishing year. NMFS is taking this action because the common pool has caught 73 percent of its Southern New England/Mid-Atlantic winter flounder quota, and 96 percent of its Gulf of Maine haddock quota. This action is intended to prevent the overharvest of the common pool's FY 2013 allocation of Southern New England/Mid-Atlantic winter flounder and Gulf of Maine haddock.

DATES: Effective August 28, 2013, through April 30, 2014.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fishery Management Specialist, 978–675–2153, Fax 978–281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the Northeast (NE) multispecies fishery are found at 50 CFR part 648, subpart F. The regulations authorize the Regional Administrator (RA) to adjust the possession limits for common pool vessels in order to prevent the overharvest or underharvest of the common pool quotas. Based on data reported through August 21, 2013, the common pool fishery has caught approximately 73 percent of its Southern New England/Mid-Atlantic (SNE/MA) winter flounder allocation of 136 mt, and 96 percent of its Gulf of Maine (GOM) haddock allocation of 2 mt. Despite a trip limit reduction for SNE/MA winter flounder, and a closure to the GOM Haddock Trimester Total Allowable Catch Area earlier this fishing year on July 16, 2013 (77 FR 42478), recent analysis shows that the common pool would likely exceed its allocation for both stocks if further action is not taken. To address this potential overharvest, the trip limit for SNE/MA winter flounder is reduced to 300 lb (136.1 kg) per trip, and the GOM haddock trip limit is reduced to zero for all common pool vessels. The trip limit adjustments are effective August 28, 2013, through April 30, 2014.

Catch will continue to be monitored through vessel trip reports, dealer-reported landings, vessel monitoring system catch reports, and other available information, and if necessary, additional adjustments to common pool management measures may be made.

Classification

This action is required by 50 CFR part 648, and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest for the reasons stated below. Pursuant to 5 U.S.C. 553(d)(3), the AA also finds good cause to waive the 30-day delayed effectiveness period for the same reasons.

The regulations at § 648.86(o) authorize the RA to adjust the NE multispecies trip limits for common pool vessels in order to prevent the overharvest or underharvest of the common pool quotas. The catch data used as the basis for this action only recently became available. The available analysis indicates that if the SNE/MA winter flounder and GOM haddock trip limits are not reduced quickly, the common pool fishery will likely exceed its FY 2013 allocation for these stocks. Any overages of the common pool quota for these stocks would undermine conservation objectives and trigger the implementation of accountability measures that would have negative economic impacts on common pool vessels. This action reduces the probability of the common pool fishery exceeding its allocations for SNE/MA winter flounder and GOM haddock. As a result, the time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent NMFS from implementing the necessary trip limit adjustments in a timely manner, which could undermine conservation objectives of the NE Multispecies Fishery Management Plan, and cause negative economic impacts to the common pool fishery.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 26, 2013.

Kelly Denit,

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

[FR Doc. 2013–21381 Filed 8–28–13; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 110831548–3536–02]

RIN 0648–XC836

Atlantic Highly Migratory Species; Atlantic Commercial Shark Fisheries

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 68 metric tons (mt) dressed weight (dw) of non-blacknose small coastal shark (SCS) quota from the Atlantic region to the Gulf of Mexico region for the remainder of the 2013 fishing year. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to commercial Atlantic shark permitted vessels.

DATES: The quota transfer is effective from September 2, 2013 until December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Peter Cooper 301–427–8503; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.27(b)(2), NMFS may conduct inseason quota transfers of regional quotas between regions for species or management groups where the species are the same between regions and the quota is split between regions for management purposes and not as a result of a stock assessment. Before making any adjustment, NMFS considers the following determination criteria in § 635.27(b)(2)(iii), and other relevant factors: (1) The usefulness of information obtained from catches in the particular management group for biological sampling and monitoring of the status of the respective shark species and/or management group; (2) the catches of the particular species and/or management group quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; (3) the projected ability of the vessels fishing under the particular species and/or management group quota to harvest the additional amount of corresponding quota before the end of the fishing year; (4) effects of the adjustment on the status of all shark species; (5) effects of the adjustment on accomplishing the objectives of the fishery management plan; (6) variations in seasonal distribution, abundance, or migration patterns of the appropriate shark species and/or management group; (7) effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the quota; and/or (8) review of dealer reports, daily landing trends, and the availability of the respective shark species and/or management group on the fishing grounds.

Based on dealer reports received as of August 14, 2013, NMFS estimates that 53.0 metric tons (mt) dressed weight (dw) (116,819 lb dw) or 78 percent of Gulf of Mexico non-blacknose SCS quota has been landed; 0.7 mt dw (1,565 lb dw) or 35 percent of the Gulf of Mexico blacknose quota has been landed; 72.6 mt dw (160,080 lb dw) or 28 percent of the Atlantic non-blacknose SCS quota has been landed; and 11.6 mt dw (25,580 lb dw) or 64 percent of the Atlantic blacknose quota has been landed. According to the regulations at § 635.28(b)(2), NMFS will close the Gulf of Mexico non-blacknose SCS and blacknose management groups once the Gulf of Mexico non-blacknose SCS quota reaches, or is projected to reach, 80 percent of the quota, because the quotas for the Gulf of Mexico non-blacknose SCS and Gulf of Mexico blacknose management groups are linked. Alternatively, under § 635.27(b)(2)(iii), if the criteria and relevant factors listed above are met, NMFS could transfer some of the SCS quota from the Atlantic region to the Gulf of Mexico region because the non-blacknose SCS regional quotas were established for management purposes and not as a result of a stock assessment. NMFS has considered these criteria and their applicability to the non-blacknose SCS and blacknose shark quotas in the Atlantic and Gulf of Mexico regions. These considerations include, but are not limited to, the following:

- Regarding the first criterion listed above, biological samples collected by NMFS scientific observers on commercial vessels targeting blacknose and non-blacknose SCS continue to provide NMFS with valuable data for ongoing scientific studies of shark age and growth, migration, and reproductive status. Regarding the second criterion, commercial shark dealer data show that landings of Gulf of Mexico non-blacknose SCS are approaching 80 percent of the quota (78 percent). Once the quota reaches, or is projected to reach 80 percent, both the Gulf of Mexico non-blacknose SCS and blacknose shark management groups would close.
- In relation to these potential quotas and considering the third, fourth, sixth, seventh, and eighth criteria, NMFS analyzed dealer landings data, catch trends, and potential migration of the species involved and determined that under current fishing rates, 68 mt dw is a reasonable amount of quota to transfer that would allow fishermen the opportunity to fully land non-blacknose SCS and blacknose shark quotas in both regions, while avoiding negative impacts to shark species. This action will not have impacts beyond those already analyzed in the 2006 Consolidated HMS FMP and its amendments, and thus is not expected to negatively impact the stock.
- In relation to the fifth criterion, this action is consistent with the quotas previously implemented and analyzed in the 2013 shark quota final rule (77 FR 75896, December 26, 2013) and in the final rule implementing Amendment 5a to the 2006 Consolidated Atlantic HMS FMP. Specifically, this action is consistent with the objective of providing opportunities to fully harvest shark quotas without exceeding them based upon the 2006 Consolidated HMS FMP goal: "Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems."

Based on these considerations and other relevant factors, NMFS has determined that a quota transfer is warranted, and is transferring 68 mt dw (149,914 lb dw) from the Atlantic non-blacknose SCS quota to the Gulf of Mexico non-blacknose SCS quota as of 11:30 p.m. local time on September 2, 2013. This quota transfer results in an

adjusted quota of 135.7 mt dw (299,075 lb dw) for the Gulf of Mexico non-blacknose SCS management group, and an adjusted quota of 193.5 mt dw (426,570 lb dw) for the Atlantic non-blacknose SCS management group. Based on dealer reports as of August 14, 2013, NMFS estimates that 53.0 metric tons (mt) dressed weight (dw) (116,819 lb dw) or 39 percent of this adjusted Gulf of Mexico non-blacknose SCS quota has been landed, and 72.6 mt dw (160,080 lb dw) or 37.5 percent of this adjusted Atlantic non-blacknose SCS quota has been landed.

The transfer of quota between the Gulf of Mexico non-blacknose SCS and Atlantic non-blacknose SCS management groups is appropriate per § 635.27(b)(2)(iii), because the Gulf of Mexico non-blacknose SCS and Atlantic non-blacknose SCS management groups contain the same species between regions (Atlantic sharpnose, finetooth, and bonnethead sharks) and because the quota is split between the regions for management purposes and not as a result of a stock assessment. This quota transfer will provide commercial fishermen additional opportunity to harvest the Gulf of Mexico blacknose quota and not be limited by the Gulf of Mexico non-blacknose SCS quota. Gulf of Mexico non-blacknose SCS and blacknose sharks are often caught together in the same fisheries; therefore, the quota linkage between these two management groups was created to prevent exceeding the Gulf of Mexico blacknose shark quota through discarded bycatch of blacknose sharks once the Gulf of Mexico blacknose shark landings have reached, or are projected to reach, 80 percent of the quota. The decision to transfer 68 mt dw of non-blacknose SCS quota from the Atlantic to the Gulf of Mexico region was based in part on recent dealer landings reports and projected landings rates. These projections indicate that transferring 68 mt dw non-blacknose SCS quota from the Atlantic region to the Gulf of Mexico region could allow the non-blacknose SCS fisheries in each region to remain open through the end of the 2013 fishing year, if landings and fishing rates do not increase substantially.

At § 635.27(b)(1)(ii), the boundary between the Gulf of Mexico region and the Atlantic region is defined as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N. lat, proceeding due east. Any water and land to the north and east of that boundary is considered, for the purposes of quota monitoring and setting of quotas, to be within the Atlantic region.

Depending on future quota availability, we may consider additional quota transfers to provide fishermen the opportunity to fully harvest available quotas in the Atlantic and Gulf of Mexico regions, or close fisheries if quotas are reached, but any such action would occur in another **Federal Register** notice.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway and any delay in this action could result in unnecessary closure of the Gulf of Mexico non-blacknose SCS and blacknose shark quotas. This would be inconsistent with management requirements and objectives of the 2006 Consolidated HMS FMP, and would unnecessarily limit fishing opportunities. For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3). This action is required under § 635.27(b)(2) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 27, 2013.

Kelly Denit,

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

[FR Doc. 2013–21387 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 170
Tuesday, September 3, 2013

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

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2013–BT–STD–0030]

RIN 1904–AD01

Energy Efficiency Program for Commercial and Industrial Equipment: Energy Conservation Standards for Commercial Packaged Boilers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public meeting and availability of the Framework Document.

SUMMARY: The U.S. Department of Energy (DOE) is initiating the rulemaking and data collection process to consider amending the energy conservation standards for commercial packaged boilers. This rulemaking will satisfy the statutory requirement for DOE to review energy conservation standards for covered equipment every six years to determine whether such standards should be amended. After concluding its initial review of the available information and public comments, DOE will publish either a notice of the determination that standards do not need to be amended, or a notice of proposed rulemaking including new proposed standards. To inform interested parties and to facilitate this process, DOE has prepared a Framework Document that details the analytical approach and scope of coverage for the rulemaking, and identifies several issues about which DOE is particularly interested in receiving comments. DOE will hold a public meeting to discuss and receive comments on its planned analytical approach and the issues it will address in this rulemaking proceeding. DOE welcomes written comments and relevant data from the public on any subject within the scope of this rulemaking. A copy of the Framework Document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/74.*

DATES: *Meeting:* DOE will hold a public meeting on Tuesday, October 1, 2013, from 9:00 a.m. to 4:00 p.m. in Washington, DC. Additionally, DOE plans to conduct the public meeting via webinar. You may attend the public meeting via webinar, and registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/74.* Participants are responsible for ensuring their systems are compatible with the webinar software.

DOE must receive requests to speak at the public meeting before 4:00 p.m., Tuesday, September 17, 2013. DOE must receive an electronic copy of the statement with the name and, if appropriate, the organization of the presenter to be given at the public meeting before 4:00 p.m., Tuesday, September 24, 2013.

Comments: DOE will accept written comments, data, and information regarding the Framework Document before and after the public meeting, but no later than October 18, 2013.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please note that any foreign national planning to participate in the public meeting is subject to advance security screening procedures, and should so inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945. Please note further that any visitor with a personal computer who enters the Forrestal Building is required to be screened and to obtain a property pass upon entry. Such visitors should allow 45 minutes for the screening process. As noted above, persons may also attend the public meeting via webinar. See "Public Participation" in **SUPPLEMENTARY INFORMATION** below for meeting details.

Interested parties are encouraged to submit comments electronically. However, comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PkgdBoilers2013STD0030@ee.doe.gov.* Include docket number EERE–2013–BT–STD–0030 and/or regulatory identifier number (RIN) 1904–AD01 in the subject line of the message. All comments should clearly identify the name, address, and, if appropriate, organization of the commenter. Submit electronic comments in WordPerfect, Microsoft Word, portable document format (PDF), or American Standard Code for Information Interchange (ASCII) file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–2J, Framework Document for Commercial Packaged Boilers, Docket No. EERE–2013–BT–STD–0030 and/or RIN 1904–AD01, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. Note that comments sent by postal mail are often delayed and may be damaged as a result of the U.S. Postal Service mail screening process.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Sixth Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Instructions: All submissions received must include the agency name and docket number and/or RIN for this rulemaking. No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting attendee lists and transcripts, public comments, and other supporting documents and materials (search EERE–2013–BT–STD–0030). Otherwise, all documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/*

buildings/appliance_standards/product.aspx/productid/74. This Web page contains a link to the docket for this notice on the *www.regulations.gov* Web site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For information about how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT:

Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8654. Email: *commercial_packaged_boilers@ee.doe.gov*.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov*.

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), sets forth a variety of provisions designed to improve energy efficiency, and it established the "Energy Conservation Program for Certain Industrial Equipment," a program covering certain commercial and industrial equipment (hereafter referred to as "covered equipment"), which includes the commercial packaged boilers that are the focus of this notice.[2] Part A–1 includes definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require compliance information and certification reports from manufacturers of covered equipment (42 U.S.C. 6316). Moreover, EPCA authorizes DOE to establish technologically feasible, economically justified energy conservation regulations for certain products and equipment that would be likely to result in significant national energy savings. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

EPCA covers many types of commercial and industrial equipment, including packaged boilers. (42 U.S.C. 6311(1)(J)) EPCA defines the term "packaged boiler" to mean "a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections." (42 U.S.C. 6311(11)(B)) EPCA prescribed minimum efficiency levels (combustion efficiency) both for gas-fired packaged boilers and oil-fired packaged boilers with rated maximum input capacities of 300,000 British thermal units (Btus) or more. (42 U.S.C. 6313(a)(4)(C) and (D)) The minimum efficiency levels generally correspond to the levels set in the American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE)/Illuminating Engineering Society (IES) Standard 90.1.[3] Further, EPCA provides if ASHRAE/IES Standard 90.1 is amended with respect to packaged boilers, then DOE shall consider amending the prescribed minimum efficiency levels. (42 U.S.C. 6313((a)(6)) In other words, when ASHRAE amends the efficiency levels for packaged boilers in Standard 90.1, DOE must adopt the new ASHRAE requirements unless clear and convincing evidence supports a determination that adoption of a more-stringent level would produce significant additional energy savings and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6))

In the event that ASHRAE does not act to amend Standard 90.1 (thereby triggering DOE to conduct an amended standards rulemaking), EPCA provides an alternative statutory mechanism for initiating such review. More specifically, EPCA requires that every six years, the Secretary of Energy (Secretary) shall consider amending the energy conservation standards for covered commercial equipment and shall publish either a notice of determination that those standards do not need to be amended, or a notice of proposed rulemaking for more-stringent energy efficiency standards. (42 U.S.C. 6313(a)(6)(C))

In 2009, DOE acted in response to an ASHRAE trigger and published a final rule amending the energy conservation standards for commercial packaged boilers to correspond to the efficiency levels (thermal efficiency) in the most recent ASHRAE Standard 90.1 which amended commercial packaged boiler efficiency levels (*i.e.*, ASHRAE Standard 90.1–2007). 74 FR 36312 (July 22, 2009).

In addition, EPCA prescribes test procedures for packaged boilers which are generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute [4] (ARI) or by ASHRAE, as referenced in ASHRAE/IES Standard 90.1. (42 U.S.C. 6314(a)(4)(A)) Furthermore, EPCA directs that if an industry test procedure or rating procedure for packaged boilers is amended, then DOE shall amend the test procedure as necessary for the equipment to be consistent with the amended industry procedure. (42 U.S.C. 6314(a)(4)(B)) In addition to requiring DOE to update its test method each time the relevant industry test procedure is modified, EPCA requires that DOE conduct an evaluation of its test procedure for each covered class of equipment at least once every seven years. (42 U.S.C. 6314(a)(1)(A)) DOE last reviewed its test procedures for commercial packaged boilers in a final rule published in the **Federal Register** on July 22, 2009 (77 FR 36312), so DOE must evaluate the test procedures for this equipment not later than July 22, 2016. DOE is considering updating the test procedures for commercial packaged boilers in a separate proceeding that would occur in parallel with the energy conservation standards analysis outlined in this Framework Document. DOE aims to publish a final rule for the test procedure rulemaking prior to completing the energy conservation standards rulemaking.

In view of the foregoing, DOE has prepared the Framework Document to explain the relevant issues, analyses, and processes it anticipates using when considering amended energy conservation standards for commercial packaged boilers. The focus of the public meeting noted above will be to discuss the information presented and issues identified in the Framework Document. At the public meeting, DOE will make presentations and invite discussion on the rulemaking process as it applies to commercial packaged boilers. DOE will also solicit comments,

[1] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

[3] For more information, see *www.ashrae.org*.

[4] The Air-Conditioning and Refrigeration Institute (ARI) has been renamed the Air-Conditioning, Heating, and Refrigeration Institute (AHRI).

data, and information from participants and other interested parties.

DOE is planning to conduct in-depth technical analyses in the following areas: (1) Engineering; (2) energy-use characterization; (3) equipment price; (4) life-cycle cost and payback period; (5) national impacts; (6) manufacturer impacts; (7) utility impacts; (8) employment impacts; (9) emission impacts; and (10) regulatory impacts. DOE will also conduct several other analyses that support those previously listed, including a market and technology assessment, a screening analysis (which contributes to the engineering analysis), and a shipments analysis (which contributes to the national impact analysis).

Public Participation: DOE encourages those who wish to participate in the public meeting to obtain the Framework Document and to be prepared to discuss its contents. A copy of the Framework Document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/74.*

Public meeting participants need not limit their comments to the issues identified in the Framework Document. DOE is also interested in comments on other relevant issues that participants believe would affect energy conservation standards for this equipment, applicable test procedures, or the preliminary determination on the scope of coverage. DOE invites all interested parties, whether or not they participate in the public meeting, to submit in writing by October 18, 2013, comments and information on matters addressed in the Framework Document and on other matters relevant to DOE's consideration of coverage of and amended energy conservation standards for commercial packaged boilers.

The public meeting will be conducted in an informal, facilitated, conference style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters covered under by U.S. antitrust laws. A court reporter will record the proceedings of the public meeting, after which a transcript will be available for purchase from the court reporter and placed on the DOE Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/74.*

After the public meeting and the close of the comment period for the Framework Document, DOE will begin collecting data, conducting the analyses described in the Framework Document and at the public meeting, and reviewing the public comments received.

DOE considers public participation to be a very important part of the process for determining whether to amend the energy conservation standards for commercial packaged boilers and, if so, in setting amended standards levels. DOE actively encourages the participation and interaction of the public during the comment period established for each stage of the rulemaking process. Beginning with the Framework Document and during each subsequent public meeting and comment period, interactions with and among members of the public provide a balanced discussion of the issues and assist DOE in the standards rulemaking process. Accordingly, anyone who wishes to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586–2945, or via email at *Brenda.Edwards@ee.doe.gov.*

Issued in Washington, DC, on August 28, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2013–21346 Filed 8–30–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 538 and 560

Effectiveness of Licensing Procedures for Exportation of Agricultural Commodities, Medicine, and Medical Devices to Sudan and Iran; Comment Request

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Request for comments.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury is soliciting comments on the effectiveness of OFAC's licensing procedures for the exportation of agricultural commodities, medicine, and medical devices to Sudan and Iran. Pursuant to section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of Pub. L. 106–387, 22 U.S.C. 7201 *et seq.*) (the "Act"), OFAC is required to submit a biennial report to the Congress on the operation of licensing procedures for such exports.

DATES: Written comments should be received on or before October 3, 2013 to be assured of consideration.

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

Federal eRulemaking Portal: www.regulations.gov.

Follow the instructions for submitting comments.

Fax: Attn: Request for Comments (TSRA) (202) 622–0091.

Mail: Attn: Request for Comments (TSRA), Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information about these licensing procedures should be directed to the Licensing Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, telephone: (202) 622–2480 (not a toll free number). Additional information about these licensing procedures is also available at *www.treasury.gov/tsra.*

SUPPLEMENTARY INFORMATION: The current procedures used by OFAC for authorizing the export of agricultural commodities, medicine, and medical devices to Sudan and Iran are set forth in 31 CFR 538.523–526 and 31 CFR 560.530–533. Under the provisions of section 906(c) of the Act, OFAC must submit a biennial report to the Congress on the operation, during the preceding two-year period, of the licensing procedures required by section 906 of the Act for the export of agricultural commodities, medicine, and medical devices to Sudan and Iran. This report is to include:

(1) The number and types of licenses applied for;

(2) The number and types of licenses approved;

(3) The average amount of time elapsed from the date of filing of a license application until the date of its approval;

(4) The extent to which the licensing procedures were effectively implemented; and

(5) A description of comments received from interested parties about the extent to which the licensing procedures were effective, after holding a public 30-day comment period.

This notice solicits comments from interested parties regarding the effectiveness of OFAC's licensing procedures for the export of agricultural commodities, medicine, and medical devices to Sudan and Iran for the time period of October 1, 2010 to September 30, 2012. Interested parties submitting

comments are asked to be as specific as possible. In the interest of accuracy and completeness, OFAC requires written comments. All comments received on or before October 3, 2013 will be considered by OFAC in developing the report to the Congress. Consideration of comments received after the end of the comment period cannot be assured.

All comments made will be a matter of public record. OFAC will not accept comments accompanied by a request that part or all of the comments be treated confidentially because of their business proprietary nature or for any other reason; OFAC will return such comments when submitted by regular mail to the person submitting the comments and will not consider them.

Copies of past biennial reports may be obtained from OFAC's Web site (*www.treasury.gov/resource-center/sanctions/Programs/Pages/lic-agmed-index.aspx*). If that Web site is unavailable, written requests may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220, Attn: Andrea Gacki, Assistant Director for Licensing.

Note: On October 12, 2011, OFAC issued a general license authorizing the export of most food items to Iran and Sudan. Subsequent to the close of the reporting period, OFAC issued additional general licenses on October 22, 2012, authorizing the export of medicine and basic medical supplies to Iran. *See* 31 CFR 560.530(a)(2)–(3) and 31 CFR 538.523(a)(3). Accordingly, specific licenses are no longer required for these exports.

Approved: August 26, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–21363 Filed 8–30–13; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0377; FRL–9900–50–Region5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Maintenance Plan Update for Lake County, Indiana for Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a maintenance plan update for the Lake County, Indiana sulfur dioxide (SO_2) maintenance area. This plan update demonstrates that Lake County will maintain attainment of the 1971 SO_2 national ambient air quality standard (NAAQS) through 2025. This maintenance plan update satisfies section 175A of the Clean Air Act (Act), and is consistent with the September 26, 2005, approval of the State's redesignation request and maintenance plan for the Lake County, Indiana SO_2 area.

DATES: Comments must be received on or before October 3, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0377, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. Email: *blakley.pamela@epa.gov.*
3. Fax: (312) 692–2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., 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: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Rules section of this **Federal Register**, EPA is approving Indiana's state implementation plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. 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. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register.**

Dated: August 20, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–21277 Filed 8–30–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2012–0294; FRL–9900–37–Region3]

Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Virginia has applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Virginia. In the "Rules and Regulations" section of this **Federal Register,** EPA is authorizing the revisions by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we receive written comments that oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal.

However, if we receive comments that oppose this action, or portions thereof, we will withdraw the relevant portions of the immediate final rule, and they will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for

comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by October 3, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2012–0294, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: barbieri.andrea@epa.gov.*
3. *Mail:* Andrea Barbieri, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.
4. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

For further information on how to submit comments, please see today's immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Andrea Barbieri, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone Number: (215) 814–3374; email address: *barbieri.andrea@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information on how to submit comments, please see today's immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: July 12, 2013.

Shawn M. Garvin,

Regional Administrator, EPA Region III.

[FR Doc. 2013–21371 Filed 8–30–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 13–24 and 03–123; FCC 13–118]

Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on further possible actions necessary to improve internet protocol captioned telephone relay service (IP CTS), to ensure that it is used exclusively by eligible individuals, and to develop a better methodology for calculating the compensation rate paid to IP CTS providers. This action is necessary to ensure that persons with hearing disabilities have access to relay services that address their unique needs, in furtherance of the objectives of section 225 of the Communications Act of 1934, as amended (Act), to provide relay services in a manner that is functionally equivalent to conventional telephone voice services, while at the same time protecting the interstate telecommunications relay service (TRS) Fund for all forms of TRS.

DATES: Comments are due October 18, 2013 and reply comments are due November 18, 2013.

ADDRESSES: You may submit comments, identified by CG Docket Nos. 13–24 and 03–123, by any of the following methods:

Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site *http://fjallfoss.fcc.gov/ecfs2/.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket Nos. 13–24 and 03–123.

- *Paper filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, or via email to *fcc@bcpiweb.com mailto:fcc@bcpiweb.com.*For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418–2235 or email *Eliot.Greenwald@fcc.gov <mailto:Eliot.Greenwald@fcc.gov>.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Further Notice of Proposed Rulemaking (*Further Notice*), document FCC 13–118, adopted on August 26, 2013, and released on August 26, 2013, in CG Docket Nos. 13–24 and 03–123. In document FCC 13–118, the Commission adopted an accompanying Report and Order (*IP CTS Order*), which is summarized in a separate **Federal Register** publication. The full text of document FCC 13–118 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone: (800) 378–3160, fax: (202) 488–5563, or Internet: *www.bcpiweb.com <http://www.bcpiweb.com>.* Document FCC 13–118 can also be downloaded in Word or Portable Document Format (PDF) at *<http://www.fcc.gov/encyclopedia/telecommunications-relay-services-trs>.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov <mailto:fcc504@fcc.gov>* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex*

parte rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with sec. 1.1206(b). In proceedings governed by sec. 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 13–118 seeks comment on potential new and revised information collection requirements or may result in new or revised information collection requirements. If the Commission adopts any new and revised information collection requirement, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

1. During the spring and fall of 2012, the Commission witnessed an unusually steep increase in the growth of IP CTS minutes. This sudden and unprecedented escalation raised serious concerns for the Interstate TRS Fund (Fund) that, if not immediately addressed, threatened to overwhelm and, therefore, jeopardize the Fund for all forms of TRS. In order to protect the Fund, on January 25, 2013, the Commission took swift and immediate action, in the *IP CTS Interim Order*, published at 78 FR 8032, February 5, 2013, to terminate, on an interim basis, provider practices that appeared to be resulting in the use of IP CTS by individuals who did not need this service to communicate in a functionally equivalent manner. The Commission's interim rules also included a requirement that providers set equipment to a default captions-off setting, and certain registration and certification requirements. On August 26, 2013, the Commission released the *IP CTS Order* that finalizes and modifies interim rules relating to marketing practices and registration, and makes permanent the default captions-off rule. Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Further Notice of Proposed Rulemaking, document FCC 13–118, adopted on August 26, 2013, and released on August 26, 2013, in CG Docket Nos. 13–24 and 03–123. The *Further Notice* seeks comment on a number of matters pertaining to the provision of and funding for IP CTS.

2. Rate Methodology Used for IP CTS. In the *Further Notice*, the Commission seeks comment on whether to change the methodology for calculating the compensation rate paid to providers for IP CTS. Currently, IP CTS rates are determined using the Multi-state Average Rate Structure Plan (MARS Plan). Under the MARS Plan, the Fund administrator calculates the compensation rates for IP CTS using a weighted average of competitively bid state rates for intrastate captioned telephone service (CTS). *See 2007 TRS Rate Methodology Order*, published at 73 FR 3197, January 17, 2008. At the time the Commission adopted the MARS Plan, IP CTS was a nascent service and was provided by only a single entity that offered service through two subcontracting companies. As such, call volume for this service was small, with costs that necessarily reflected this low usage. Since December 2011, IP CTS has been experiencing unprecedented and unusually rapid growth that has signaled a sharp departure from the trend of declining rates of growth in usage of this service over three prior years. At the same time, provider projections for IP CTS growth have been called into question, as minutes of use have far exceeded their projections in recent months, and PSTN-based CTS minutes of use, upon which the MARS rate is largely based, have steadily fallen. Given this unusually rapid growth, the declining minutes of use of PSTN-based CTS upon which the MARS rate is based, concerns about the accuracy of provider forecasts of IP CTS demand, and the potential for a vastly larger market and thus even larger call volumes, the Commission asks whether use of the MARS plan as the rate methodology for IP CTS remains appropriate. The Commission also notes that the burgeoning IP CTS market and the proliferation of new prospective provider entrants may necessitate the adoption of additional mandatory minimum IP CTS standards, which in turn may increase the cost of providing the service. Accordingly, the Commission seeks comment on whether the original premise underlying the adoption of the MARS rate—that the reasonable costs of IP CTS would be reflected in an average of the PSTN version of this service competitively bid throughout the states—still supports use of this methodology for IP CTS. The Commission believes that there are currently significant differences in demand levels for PSTN-based CTS and IP CTS, such that tying rates for IP CTS to the rates set at the state level for PSTN-based CTS may no longer be appropriate. The Commission seeks comment on this point, and asks whether economies of scale have reduced the costs of IP CTS. In this regard, the Commission notes that although the TRS Fund administrator has calculated a proposed rate of $1.7877 for the 2013–14 Fund year based on the CTS MARS calculation, aggregated provider submitted cost data results in an actual cost per minute calculation of $1.4826 for IP CTS.

3. The Commission also asks for comment on and proposals for alternative cost recovery methodologies for IP CTS. For example, should the Commission adopt a rate methodology similar to that for VRS and IP Relay, *i.e.*, based on a weighted average of actual and/or projected costs for each provider? If the Commission adopts a

methodology based on providers' submission of actual and/or projected costs, the Commission anticipates that it will specify which expenses may be included as part of the "reasonable" costs necessary for the provision of IP CTS. The Commission therefore seeks comment on what such allowable costs should be. Should the cost categories be different than those used in calculating rates for IP Relay and VRS? Alternatively, should the Commission adopt a rate methodology for IP CTS that calculates rates based on each individual provider's costs? In this regard, the Commission questions whether the cost elements that go into a determination of the IP Relay rate, now set at $1.0391 per minute for the 2013–14 Fund year, are demonstrably different from the elements that go into an IP CTS minute. Prior to the adoption of the MARS rate for IP CTS, this service was compensated at the same rate as IP Relay. Are the labor and outreach costs of providing IP CTS similar to the costs of providing IP Relay, and if so, should the Commission return to the original method of reimbursing for IP CTS at the same rate as IP Relay? What cost categories should be permissible for inclusion in the costs for each provider? Should IP CTS costs be lower than IP Relay costs, given that an IP Relay CA must be trained to read aloud the words of the IP Relay user and transcribe the words of the hearing caller, whereas an IP CTS CA need only transcribe the words of the hearing caller? To what extent are the cost differences due to marketing and outreach expenses? Should the Commission consider removing the outreach costs from the rate base for IP CTS as it recently did for VRS and IP Relay in the *VRS Structural Reform Order* published at 78 FR 40407, July 5, 2013? Should other expenses currently included in the rate calculations for VRS and IP Relay be excluded from rate calculations for IP CTS? Conversely, should any expense categories currently excluded from the rate calculations for VRS and IP Relay be included in rate calculations for IP CTS? The Commission specifically seeks input on the extent to which the rate should include an allowance for working capital. Commenters that maintain that the costs associated with providing these various forms of relay are not comparable should be specific in describing the differences that result in disparate costs for each service.

4. Additionally, if the Commission adopts a methodology based on an analysis of providers' actual and projected costs, the Commission seeks comment on whether it should require the same filings of cost and demand data by IP CTS providers as are currently required of VRS and IP Relay providers and on the degree of any administrative burden such filings would impose on the Commission and the providers. Would any burden be outweighed by the benefit of having a rate for IP CTS that more accurately reflects the true costs of providing the service?

5. To the extent that the Commission adopts a new rate methodology, it further seeks comment on the period that the IP CTS rate determined under this regime should remain in effect. What should the rate period be? Should the Commission establish the IP CTS rate for periods longer than one year to ensure predictability? Alternatively, should the rate be established for periods shorter than one year, in order to provide an opportunity to adjust the rate to account for significant changes in costs or demand? If the rate period is one year or longer, how should rates be adjusted during such longer period? The Commission seeks comment on the advantages and disadvantages of using either a one-year rate period or some shorter or longer period of time for this service category.

6. The Commission also seeks comment on other alternatives to the current rate methodology. For example, should the Commission seek competitive bids for the provision of IP CTS, limiting the opportunity to provide this service in the future to one or more winning bidders? If the Commission were to transition to such a structure, in the interim, how should it set rates in order to ensure the continued viability of the service to those who need it most? Are there ways to utilize competitive bidding or auction-type processes to set rates for IP CTS without unduly limiting the number of ultimate providers?

7. The Commission also seeks comment on whether, under any rate methodology for IP CTS, there should be a "true-up" at the end of each Fund year based on actual reasonable costs of either individual providers or, to encourage providers to seek greater efficiencies, either a weighted average or the lowest cost among providers of the service. Under a true-up, providers would be required to reimburse the Fund for any amount by which their payments exceed actual reasonable costs, as determined by the Administrator in consultation with the Commission, based on filings by the providers. With such a true-up, providers' ultimate compensation need not be contingent on estimates of costs or minutes of use. Providers would receive periodic payments of estimated reasonable costs based on a particular cost methodology, and at the end of the Fund year, or other period as determined by the Commission, the true-up would reconcile the providers' actual reasonable costs for providing service in compliance with the Commission's rules and the payments received. The Commission seeks comment generally on any issues relating to the use of a true-up, including how a true-up could be implemented, what record keeping requirements might be required, and when and how often the true-up should occur.

8. Centralized Registration and Verification of IP CTS Users. In the Commission's *VRS Structural Reform Order*, the Commission directed the creation of a user registration database (TRS–URD) and implementation of centralized eligibility verification requirements to ensure that VRS registration is limited to those who have a hearing or speech disability. The Commission indicated that such database should have capabilities to allow the Fund administrator and the Commission to: (a) Receive and process registration information provided by VRS providers sufficient to identify unique VRS users and ensure each has a single default provider; (b) assign each VRS user a unique identifier; (c) allow VRS providers and other authorized entities to query the database to determine if a prospective user already has a default provider; (d) allow VRS providers to indicate that a VRS user has used the service; and (e) maintain the confidentiality of proprietary data housed in the database by protecting it from theft, loss, or disclosure to unauthorized persons. In the *Further Notice*, the Commission proposes that a centralized registration and verification process will also reduce fraud, waste and abuse and ensure greater efficiency in the IP CTS program, and seeks comment on whether to apply the same centralized registration and verification process that it adopted for VRS to IP CTS. The Commission specifically asks whether to require each IP CTS provider to give users the capability to register with that provider as the user's "default provider," (47 CFR 64.611(a) of the Commission's rules), to populate the TRS–URD with information about each user, and to query the database to ensure each user's eligibility for each call, as well as to generally comment on application of the centralized processes for registration and verification that the Commission adopted for VRS to IP CTS. Among other things, the Commission asks commenters to note any differences

between VRS and IP CTS that might necessitate adjustment in the way that information is entered into the database, the database is utilized, and the confidentiality protections that will be needed to protect against the unauthorized disclosure of information housed in that database.

9. The Commission also proposes to direct the Managing Director to ensure that the centralized user registration database has the capability of performing an identification verification check when an IP CTS provider or other party submits a query to the database about an existing or potential user. It further proposes that the criteria for identification verification for IP CTS (*e.g.*, information to be submitted, acceptable level of risk, *etc.*) be established by the Managing Director in consultation with the Commission's Chief Technology Officer and the Chief of the Office of Engineering and Technology. Finally, it proposes that IP CTS providers not be permitted to register individuals who do not pass the identification verification check conducted through the user registration database, and not be permitted to seek compensation for calls placed by such individuals. It seeks comment on each of these proposals.

10. Migration to State TRS Programs. The Commission seeks comment on whether it should transfer the responsibilities for funding, administering and overseeing IP CTS to all state TRS programs. Specifically, the Commission seeks comment on whether the states should assume the responsibilities for operating and funding IP CTS (including user eligibility assessments overseeing self-certification, and registering uses with the TRS–URD); whether this arrangement would help address use by ineligible users; and whether the default caption-off requirement would still be necessary under such arrangement. The Commission asks whether it should prescribe other steps that states must make to ensure that IP CTS providers are not seeking compensation from the Fund for calls made by ineligible users. The Commission further asks to what extent each state program should be permitted to define its own eligibility criteria for IP CTS use. The Commission also asks, as an alternative, whether it should set minimum or maximum standards on eligibility by which all states must comply, or whether states should be permitted to establish their own eligibility criteria.

11. The Commission further asks whether the registration and verification functions of providing IP CTS could be easily integrated in the states' current CTS operations, and what the costs and benefits would be of requiring the state TRS programs to take on the responsibilities of administering the IP CTS service. The Commission clarifies that if the state TRS programs assume the responsibility of administering the IP CTS service, the distribution of IP CTS equipment would remain at the states' option. The Commission asks how the provision of CTS is currently handled by states that do not have an equipment distribution program and whether such states nevertheless conduct assessments for participation in their CTS program that could be used for determining IP CTS eligibility. The Commission asks what new or other responsibilities, in addition to conducting assessments of potential IP CTS users, the states would have to take on if the transfer of responsibility is made. In addition, the Commission solicits comments on what length of time would be needed for such a transition, and what effect such a shift would have on functional equivalence for users.

12. Funding IP CTS and Mandating CTS and IP CTS. The Commission seeks comment on whether the original incentives for having the TRS Fund support the costs of all IP CTS calls still exist, given that there are now more providers and vendors offering the service, and that a primary reason for originally using Fund support was the difficulty in ascertaining the location of calls made using IP transmissions. Because the Commission believes that IP CTS providers are able to ascertain the origination and destination of IP CTS calls, like traditional CTS, in a manner that would allow for compensation for these calls to be billed to the states or the Fund, it proposes to treat IP CTS like traditional CTS, wherein state relay programs would be required to compensate providers for intrastate IP CTS calls, and seeks comment on this proposal. If the Commission's assumption is incorrect that IP CTS providers are able to discern the points or origination and destination of IP CTS calls in a manner that would allow them to determine which calls are intrastate versus interstate, it seeks input on other ways that it can allocate IP CTS compensation for intrastate and interstate calls between the states and the TRS Fund, and how the Commission might make such a transition in a way to best benefit consumers. For example, it asks whether it should establish a default proxy allocation between interstate and intrastate call jurisdiction that can be used if actual measurements are not possible, and if so, what that allocation should be. It also seeks comment on the proposed jurisdictional separation, and asks about the time period that would be needed by the states to effectuate this change. In addition, the Commission asks how it can achieve this transition in a way to best benefit consumers. Finally, because the Commission proposes to shift some of the financial obligation to the state programs, it seeks comment on whether a mandate for CTS and IP CTS is needed to ensure that all states will participate in the provision of these services, as well as the consequences to consumers were states to discontinue service if the service is not mandated.

13. Mandatory Minimum Requirements. The Commission seeks comment on the need for and propriety of imposing certain mandatory minimum requirements for IP CTS. For example, the Commission inquires whether requirements for the speed and accuracy of captioning should be established, and if so, how such standards should be measured and enforced, including whether, if the Commission adopts a specified speed, this should be coupled with a specified error rate, and if so, what that rate should be. The Commission also seeks comment on whether it should institute recordkeeping and/or reporting requirements for effective Commission oversight. The Commission also seeks comment as to whether providers and/or users should be allowed to choose between speed and accuracy. For example, should a provider be given the option of having a shorter lag time between the time that the other party to the call speaks and the captions appear, even if there is an increased error rate as a result of maintaining such speed? Or should providers be permitted to opt for a longer lag time in favor of greater accuracy? In addition, the Commission seeks comment on whether there are other mandatory minimum requirements that are needed to ensure that IP CTS providers are offering services to the public that are functionally equivalent to voice telephone services. For example, the Commission asks about the need to address the lack of compatibility between browsers on CTS devices that use Java Script and external large print display screens or Braille readers often used by people who have severe vision loss along with their hearing loss.

14. Low Income Consumers. In the *IP CTS Order*, the Commission concluded that the availability of free or discounted equipment through state and local governmental equipment distribution programs would help to fulfill Congress's and the Commission's

goals of ensuring the widespread availability of IP CTS to individuals who can benefit from the service. Consumer Groups argue that there are a number of states that do not have equipment distribution programs, and that states that have these programs typically limit distribution to the phones offered by one provider only, thereby depriving low income consumers of the benefits of competition. The Commission notes that it is sensitive to the concerns expressed by the consumers and seeks comment on whether state equipment distribution programs are meeting the needs of low income consumers. If state equipment distribution programs are not meeting those needs, the Commission asks what should be done to address the needs of low income consumers in states without equipment distribution programs as well as in states that are not fully meeting the needs of low income consumers. It asks whether it should allow for a low-income exception to the prohibition of providing compensation for IP CTS minutes of use generated by equipment that is distributed for less than $75, and if so, who should be permitted to distribute equipment for less than $75. For example, it asks whether charitable organizations should be permitted to distribute such equipment, and if so, whether charitable organizations that receive funding from IP CTS providers should be permitted or prohibited from conducting such equipment distribution. If the Commission were to permit distribution of equipment for less than $75, it asks how it can ensure that individuals receiving such equipment qualify as low income, as well as the income thresholds that should be used to determine whether a person has a low income. Specifically, the Commission asks whether this should be four times the poverty level or some other amount, such as 135% of federal poverty guidelines or participation in a government assistance program. The Commission asks as well about the type of documentation it should require to demonstrate eligibility as a low income consumer, and whether it should require certification under penalty of perjury. For consumers who qualify for the low income exemption, the Commission also asks whether it should require that they submit third party certification under penalty of perjury of their hearing loss necessitating the use of IP CTS, and to whom consumers should submit all such documentation and certifications. Should the documentation and certifications be submitted to the newly created TRS–URD for processing and review? What other measures should the Commission adopt to ensure that individuals receiving such equipment qualify as low income and require the use of IP CTS? What are the costs and benefits of adopting a low income exception, as well as the costs and benefits of adopting measures to ensure that consumers qualify for the low income exception and require the use of IP CTS?

15. IP CTS Software and Applications. The Commission, in document FCC 13–118, prohibits compensation from the TRS Fund for IP CTS minutes of use generated by IP CTS equipment provided free of charge or at a price below $75, other than through a state or local government equipment distribution program. The Commission applies the same restriction to the provision of IP CTS software and applications to IP CTS users who had not already paid $75 for IP CTS equipment, software or applications. The *Further Notice* seeks comment on whether the purchase of IP CTS software and applications raises considerations that make it appropriate to set a different price threshold for software and applications. It also asks whether, if commenters believe that the $75 price threshold should not be made applicable to the context of software and applications, why it should not be made applicable, what would be an appropriate alternative price threshold, and why would such an alternative be sufficient to deter individuals who do not need IP CTS from using the service. The *Further Notice* also asks commenters to also address the costs and benefits of any minimum price they propose.

16. Default Captions-Off Requirement. Although the Commission believes that the rules adopted in the *IP CTS Order* adequately address concerns about emergency calls, it seeks comment for further improvements on whether it is technically feasible, and desirable, for all IP CTS equipment be defaulted to "captions turned on" for 911 emergency calls and 911 callbacks. In particular, the Commission seeks input on whether an override to "captions on" for 911 calls is necessary and technically feasible. Would such an override confuse or assist IP CTS users in an emergency? Would it be technically feasible to program an override for incoming call backs from 911 call centers? Would all IP CTS device manufacturers be capable of defaulting their devices to captions on solely for the purpose of receiving calls from 911 call centers? Could this also be done to receive specified emergency alerts from official authorities such as local, state and federal governmental entities? Should consumers be able to override an automatic default-on setting for incoming emergency calls, and if so, would such override be technologically possible? What other requirements relating to the captioning of outgoing or incoming 911 calls are feasible and appropriate?

17. Volume Control. The Commission asks for comment on whether to require the disassociation of volume control from the use of captions, and whether it should prohibit providers from linking the ability to manipulate volume or preset the volume to the setting for captions. The Commission also asks for comment on the costs and benefits of having the volume control and captions functions act independently of one another.

18. Answering Machines and Other Incoming Calls. The Commission seeks comment on whether a rule is needed to address the retrieval of messages from IP CTS equipment when the captions are defaulted off, and asks for input on how answering machines or other IP CTS devices capture captions, and the need for a rule to address the retrieval of messages from such machines. Specifically, the Commission seeks comment on how answering machines or other IP CTS devices capture captions, and whether it should amend its rules to address the retrieval of messages from such machines. Are all IP CTS devices equipped with built-in answering machines? If so, can such IP CTS devices be programmed to a captions default on setting for their answering machine functions? How would this work for the retrieval of voice mail that is captured in a telephone service provider's network or an off-the-shelf answering machine that is not integrated into the IP CTS device? Are there other incoming call situations that the Commission needs to consider? For example, some commenters claim that a captions-off default requirement can result in a delay of captioning. How does the captions-off default requirement affect the ability of a consumer to communicate on incoming calls in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services? The Commission seeks additional information about whether delays at the start of incoming calls caused by this feature may result in consumers missing critical information which could result in telephone service that is not functionally equivalent. Ultratec notes that having the captions defaulted to "on" for incoming calls and to "off" for

outgoing calls "could be very confusing to consumers. If this is the case, the Commission asks whether it should either require captions default off for all calls, both incoming and outgoing (other than calls that fit within one of the exceptions), or permit captions to default on for all calls. Finally, the Commission seeks comment on the costs and benefits of requiring that all IP CTS phones defaulted to captions on enable consumers to turn off the captioning with a single step.

19. IP CTS Phones Available Only to Registered Users. As noted in the *IP CTS Order*, Consumer Groups and some providers have suggested that there is no need to require a default setting of captions off when an IP CTS user is living alone, living only with other individuals who are registered users, or is in an office setting where no one else has access to that person's IP CTS phone. The Commission remains concerned about the unintentional user of IP CTS phones in any setting where others are present, such as a household that includes individuals who are not registered IP CTS users or a workplace station that is available to more than one employee, as well as a consumer living alone or with a private phone in a workplace who may not need captioning for every call. The Commission is also concerned that consumers who live alone or have a private phone in a workplace may not receive functionally equivalent service. The Commission therefore seeks comment on whether an exception could be implemented, above and beyond the hardship exception already granted, and consistent with our goal of eliminating unnecessary usage, for individuals who live alone (or only with other registered IP CTS users) or work in a situation, such as a private office, where no one else can use the individual's phone. The Commission asks commenters to provide information on the type of documentation that should be required to authenticate their living or working situation. In addition, if this exception were to be adopted, the Commission seeks comment on how to ensure that recipients of the exemption not use captioning when it is not needed. The Commission also asks commenters to address the costs and benefits of adopting such an exception. In addition, the Commission asks whether it could safely adopt any other exceptions to the captions default off requirement, and if so, what are the costs and benefits of adopting such exceptions.

20. State Commission Authority. The Commission asks for comment on how a transfer of IP CTS administrative responsibilities to state TRS programs would affect the default-off rule. Specifically, should state programs be authorized to decide whether and under what circumstances to allow captions to be defaulted to on, or should that decision be made by the Commission? Would a transfer of responsibilities render the default-off rule unnecessary?

21. Web site, Advertising, and Educational Information Notification. The Commission tentatively proposes to adopt a requirement to prominently display the following language on all IP CTS provider Web sites, advertising brochures and other advertising and consumer education and informational materials, including provider-supplied literature and user manuals: "FEDERAL LAW PROHIBITS ANYONE BUT REGISTERED USERS WITH HEARING LOSS FROM USING IP CAPTIONED TELEPHONES WITH THE CAPTIONS TURNED ON." The Commission seeks comment on this proposal. In the case of IP CTS provider Web sites, the Commission proposes that the language be prominently displayed on the home page, each page that provides consumer information about IP CTS, and each page that provides information on how to order IP CTS or IP CTS equipment. In addition, the Commission proposes that all IP CTS provider Web sites, advertising brochures and other advertising and consumer education and informational materials, including provider-supplied literature and user manuals, contain clear and prominently located statements and information (1) that the captions on captioned telephone service are provided by a live communications assistant who listens to the other party on the line and provides the text on the captioned phone, and (2) that the cost of captioning each Internet protocol captioned telephone call is funded through a federal program. The Commission seeks comment on these proposals and any alternative proposals to inform consumers about the way that IP CTS works and how it is funded.

22. General Prohibition of Providing Service to Users Who Do Not Need the Service. In the *VRS Structural Reform Order*, the Commission adopted a general prohibition on VRS providers engaging in fraudulent, abusive, and wasteful practices. The Commission seeks comment on whether it should adopt a general prohibition on IP CTS providers from providing service to consumers who do not genuinely need the service, that is, consumers who can understand a telephone conversation with or without assistive technology, such as an amplified phone, that does not entail the expenditure of money from the Interstate TRS Fund. The Commission also seeks comment on any other general prohibitions that should be adopted to ensure that only those who need IP CTS actually use the service. The Commission further seeks comment how else should it ensure that only those who need IP CTS actually use the service.

Initial Regulatory Flexibility Analysis

23. As required by the Regulatory Flexibility Act (RFA), (5 U.S.C. 601 *et seq.*, as amended), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Further Notice*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments in the *Further Notice*. The Commission will send a copy of the *Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

A. Need for, and Objectives of, the Proposed Rules

1. IP CTS is a form of TRS that permits people who can speak, but who have difficulty hearing over the telephone, to speak directly to another party on a telephone call and to use an Internet Protocol-enabled device to simultaneously listen to the other party and read captions of what that party is saying. *See* 47 CFR 64.601(a)(16) of the Commission's rules. In the *Further Notice*, the Commission seeks comment on six main issues. First, the Commission seeks comment on whether to change the methodology for calculating the compensation rate paid to providers for IP CTS. Second, the Commission seeks comment on whether the centralized registration and verification processes that it recently adopted for video relay service (VRS) should also apply to IP CTS. Third, the *Further Notice* asks whether the Commission should transfer the responsibilities for funding, administering and overseeing IP CTS to state TRS programs. Fourth, the Commission asks whether there is need for mandatory minimum standards specific to IP CTS, including standards on accuracy and speed, and if so, how such standards should be measured and enforced. Fifth, the Commission also seeks comment on application of its default captions off rule with regard to other situations raised in the comments to this proceeding. Finally, the Commission solicits input on a proposal that language be prominently displayed on all IP CTS provider Web sites,

advertising brochures and other advertising and consumer education and informational materials, including provider-supplied literature and user manuals, warning readers that federal law forbids anyone but registered IP CTS users from using IP CTS equipment with captioning turned on. The Commission tentatively concludes that these proposed rule changes may be necessary to ensure that persons with hearing disabilities have access to relay services that address their unique needs, in furtherance of the objectives of section 225 of the Communications Act of 1934, as amended, to provide relay services in a manner that is functionally equivalent to conventional telephone voice services, while at the same time protecting the interstate TRS Fund for all forms of TRS.

B. Legal Basis

1. The legal basis for any action that may be taken pursuant to the *Further Notice* is contained in sections 1, 2, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply

1. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

2. The Commission believes that the entities that may be affected by the proposed rules are IP CTS providers. Neither the Commission nor the SBA has developed a definition of "small entity" specifically directed toward STS providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 31,996 firms in the Wired Telecommunications Carrier category which operated for the entire year. Of this total, 30,178 firms had employment of 99 or fewer employees, and an additional 1,818 firms had employment of 100 employees or more. Thus, under this size standard, the vast majority of firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 100 employees or more"). Four providers currently receive compensation from the Interstate TRS Fund for providing IP CTS: Hamilton Relay, Inc.; Purple Communications, Inc.; Sorenson Communications, Inc. and its wholly-owned subsidiary CaptionCall; and Sprint Nextel Corporation. In addition, Miracom USA, Inc. has applied to the Commission for certification to be authorized to receive compensation from the Interstate TRS Fund (Fund) to provide IP CTS. The Commission concludes that two of the five IP CTS providers and applicants that would be affected by the proposed rules are deemed to be small entities under the SBA's small business size standard.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

1. Certain rule changes, if adopted by the Commission, would modify rules or add requirements governing reporting, recordkeeping and other compliance obligations.

2. If the Commission were to adopt the changes to the methodology for calculating the compensation rate paid to IP CTS providers as proposed in the *Further Notice*, the compensation rate may be lower than it is now, and IP CTS providers may be required to submit to the Fund administrator cost data that they are not now required to provide. However, interstate TRS, including IP CTS, is funded through a federal program in which interstate telecommunications and voice over Internet protocol (VoIP) providers, including small entities contribute to the Fund, and the monies contributed to the Fund are used to compensate TRS providers, including IP CTS providers. Section 225(b)(1) of the Act, requires that TRS is made available "in the most efficient manner" to individuals with hearing and speech disabilities. The Commission therefore has a statutory obligation to ensure that TRS providers, including IP CTS providers, are compensated fairly and are not overcompensated. The purpose of any change in rate methodology, if adopted by the Commission, would be to satisfy this statutory obligation.

3. If the Commission were to adopt centralized registration and verification processes as it recently did for VRS, and thereby extend the use of the TRS–URD to IP CTS, providers of these services, including small entities, would be required to collect certain information from consumers and enter that information in the TRS–URD. However, the TRS–URD would actually reduce the regulatory and recordkeeping burden on IP CTS providers, including small entities, because (1) the providers would no longer be required to verify user information, which would be accomplished centrally by a single entity contracted by the Commission, and (2) the providers would have reduced burdens when collecting information from users who switch providers, because the user information of those consumers would already be in the database.

4. If the Commission were to adopt the proposal to transfer the responsibilities for funding, administering and overseeing IP CTS to state TRS programs, IP CTS providers, including small entities, would need to submit compensation requests to each state and comply with the regulatory obligations, including recordkeeping and reporting, of each state. However, the Commission is concerned about misuse of IP CTS that may be costly to the interstate telecommunications and VoIP providers, including small entities, that contribute to the Fund. One of the reasons for shifting regulatory oversight of IP CTS to the states would be to provide for greater regulatory oversight to prevent such misuse. The *Further Notice* seeks comment on the costs and benefits of shifting regulatory responsibility to the states.

5. If the Commission were to adopt changes to the mandatory minimum standards specific to IP CTS, IP CTS providers, including small entities, would be required to comply with the changed standards. The Commission initially believes that the costs associated with these standards would be reasonable for the IP CTS providers, because in many cases the providers support the changes, and have indicated that they meet some of the new standards already. The *Further Notice* seeks comment on the recordkeeping that would be required to demonstrate compliance with the proposed standards, and initially believes that the recordkeeping cost to providers, including small entities, would be reasonable and in line with what is required of providers for the other forms of TRS, including many of the same providers who offer IP CTS. The *Further Notice* seeks comment on the costs and benefits of modifying the proposed mandatory minimum standards for IP CTS.

6. If the Commission modifies the application of the default captions-off

rule with regard to situations raised in the comments to this proceeding, such as to 911 calls, there may be costs to IP CTS providers, including small providers, in implementing such a change. The Commission initially believes that such costs would be reasonable, and the public interest in ensuring access to 911 would outweigh this minimal burden. The *Further Notice* seeks comment on the costs and benefits of the proposal to require that captions be turned on for all 911 calls as well as the other modifications proposed in the *Further Notice*, including whether to require the disassociation of volume control from the use of captions, whether to permit that captions be defaulted on for answering machines, and whether to permit captions to be defaulted on for IP CTS phones that are available only to registered users.

7. Finally, a requirement to provide a warning on all IP CTS provider Web sites, advertising brochures and other advertising and consumer education and informational materials, including provider-supplied literature and user manuals, that federal law forbids anyone but registered IP CTS users from using IP CTS equipment with captioning turned on, would impose only minimal burden on providers, including small providers. The changes required by this rule would be one time in nature, and the benefits of the proposal, in terms of public education, would outweigh this small economic impact.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

1. The RFA requires an agency to describe any significant alternatives, specific to small entities, that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

2. In general, alternatives to proposed rules are discussed only when those rules pose a significant adverse economic impact on small entities. In this context, however, one of the proposed rules would confer benefits as explained below, and the others do not impose significant adverse economic impact.

3. If the Commission were to adopt the changes to the methodology for calculating the compensation rate paid to IP CTS providers as proposed in the *Further Notice*, the compensation rate may be lower than it is now, and IP CTS providers may be required to submit to the Fund administrator cost data that they are not now required to provide. However, interstate TRS, including IP CTS, is funded through a federal program in which interstate telecommunications and voice over Internet protocol (VoIP) providers, including small entities contribute to the Fund, and the monies contributed to the Fund are used to compensate TRS providers, including IP CTS providers. Section 225(b)(1) of the Act requires that TRS is made available "in the most efficient manner" to individuals with hearing and speech disabilities. The Commission therefore has a statutory obligation to ensure that TRS providers, including IP CTS providers, are compensated fairly and are not overcompensated. Because the purpose of any change in rate methodology, if adopted by the Commission, would be to satisfy this statutory obligation, the Commission is not proposing other alternatives for small entities.

4. If the Commission were to adopt centralized registration and verification processes, and require IP CTS providers to transfer information to the TRS URD, IP CTS providers would transfer information which they are already obliged to collect to the central database manager, and the TRS Fund would compensate the database manager. Providers, including small entities, would thereby be relieved of the obligation to maintain registration information, and would not be responsible for the cost of maintenance of a registration database. There would be no additional reporting or recordkeeping obligations associated with the proposed rule change, and the effect of the rule would be to reduce recordkeeping obligations on providers, including small entities. The Commission is not proposing other alternatives for small entities because these requirements may be needed to limit waste, fraud and abuse, and an ineligible user can potentially defraud the TRS Fund by obtaining service from large and small entities alike. Therefore, if the Commission were to adopt centralized registration and verification procedures, the same requirements would need to apply to users of small entities as well as large entities.

5. If the Commission were to adopt the proposal to transfer the responsibilities for funding, administering and overseeing IP CTS to state TRS programs, some current IP CTS providers, including possible small entities, would need to submit compensation requests to each state and comply with the regulatory obligations, including recordkeeping and reporting, of each state. However, the Commission is concerned about misuse of IP CTS that may be costly to the interstate telecommunications and VoIP providers, including small entities, that contribute to the Fund. One of the reasons for shifting regulatory oversight of IP CTS to the states would be to provide for greater regulatory oversight to prevent such misuse. The *Further Notice* seeks comment on the costs and benefits of shifting regulatory responsibility to the states. If regulatory responsibility were shifted to the states, it would be up to the states to consider whether to adopt significant regulatory alternatives specific to small entities. If the Commission were to adopt changes to the mandatory minimum standards specific to IP CTS, IP CTS providers, including small entities, would be required to comply with the changed standards. The Commission initially believes that the costs associated with these standards would be reasonable for the IP CTS providers, because in many cases the providers support the changes, and have indicated that they meet some of the new standards already. The *Further Notice* seeks comment on the recordkeeping that would be required to demonstrate compliance with the proposed standards, and initially believes that the recordkeeping cost to providers, including small entities, would be reasonable and in line with what is required of providers for the other forms of TRS, including many of the same providers who offer IP CTS. The *Further Notice* seeks comment on the costs and benefits of modifying the proposed mandatory minimum standards for IP CTS. Moreover, the Commission is not proposing other alternatives for small entities because this proposal applies to the mandatory minimum standards for the entire IP CTS program. Section 225(d)(1)(B) of the Act requires that the Commission establish mandatory minimum standards, 47 U.S.C. 225(d)(1)(B), and section 225(a)(3) of the Act requires that TRS be provided "in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services. . . ." 47 U.S.C. 225(a)(3). In order to ensure functional equivalency, the same mandatory minimum standards need to

apply to small entities as well as large entities.

6. If the Commission changes the application of the captions default-off rule with regard to situations raised in the comments to this proceeding, such as to 911 calls, there may be costs to IP CTS providers, including small providers, in implementing such a change. As noted above, the Commission initially believes that such costs would be reasonable, and the public interest in ensuring access to 911 would outweigh this minimal burden, and therefore no alternatives are proposed for small entities. The *Further Notice* seeks comment on the costs and benefits of the proposal to require that captions be turned on for all 911 calls as well as the other modifications proposed in the *Further Notice*, including whether to require the disassociation of volume control from the use of captions, whether to permit that captions be defaulted on for answering machines, and whether to permit captions to be defaulted on for IP CTS phones that are available only to registered users. The Commission will consider any comments received that propose alternatives that would reduce the burden of any regulation on IP CTS providers, including specific proposals to reduce the regulatory burden on small entities

F. Federal Rules That May Duplicate, Overlap, or Conflict With Proposed Rules

1. None.

Ordering Clauses

2. Pursuant to sections 1, 4(i), (j), and (o), 225, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), and (o), 225, and 403, document FCC 13–118 Further Notice of Proposed Rulemaking IS *hereby adopted*.

3. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of document FCC 13–118 Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–21273 Filed 8–30–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2011–0052].

RIN 2127–AL41

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The agency is proposing to amend the Federal motor vehicle safety standard (FMVSS) on lamps, reflective devices, and associated equipment to allow the license plate mounting surface on motorcycles to be at an angle of up to 30 degrees beyond vertical. Adoption of this proposal would increase manufacturer design flexibility without compromising safety or increasing costs. In addition, it would also make the requirements of the standard more in line with European regulations.

DATES: Comments to this proposal must be received on or before November 4, 2013.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments on the electronic docket site by clicking on "Help" or "FAQ."
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

Instructions: 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. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in 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 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Markus Price, Office of Crash Avoidance Standards, NHTSA, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590 (Telephone: (202) 366–0098) (Fax: (202) 366–7002).

For legal issues: Mr. Thomas Healy, Office of the Chief Counsel, NHTSA, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590 (Telephone: (202) 366–2992) (Fax: (202) 366–3820).

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA published a NPRM on December 30, 2005 [1] to reorganize FMVSS No. 108, *Lamps, reflective devices, and associated equipment*, and improve the clarity of the standard's requirements thereby increasing its utility for regulated parties. NHTSA published a final rule on December 4, 2007,[2] amending FMVSS No. 108 by reorganizing the regulatory text so that it provides a more straight-forward and logical presentation of the applicable regulatory requirements; incorporating important agency interpretations of the existing requirements; and reducing reliance on third-party documents incorporated by reference. It was the agency's goal during the rewrite process to make no substantive changes to the requirements of the standard.

Included in the third party documents whose requirements were transferred to the regulatory text of the standard was SAE J587 OCT81, *License Plate Lamps (Rear Registration Plate Lamps)*. Among other requirements derived from SAE J587 OCT81, paragraph S6.3.3 of the

[1] 70 FR 77454, (Dec. 30, 2005).

[2] 72 FR 68234, (Dec. 4, 2007).

final rule required that the rear license plate holder be mounted at an angle ± 15 degrees of a plane perpendicular to that on which the vehicle stands.

In response to the final rule, the agency received petitions for reconsideration from Harley-Davidson Motor Company (Harley-Davidson) (January 18, 2008) and Ford Motor Company (Ford) (January 18, 2008) asking the agency to reconsider the mounting angle requirements for license plate holders. In addition to the petitions for reconsideration filed by Harley-Davidson and Ford, the agency had previously received a petition for rulemaking from the Motorcycle Industry Council (MIC) on March 14, 2005, requesting that the agency modify the license mounting angle requirement to allow license plates to be mounted between 30 degrees upward and 15 degrees downward of a plane perpendicular to that on which the vehicle stands. MIC also submitted an untimely petition for reconsideration of the FMVSS No. 108 final rule on March 19, 2009, requesting that the agency amend the license plate angle mounting requirement. Pursuant to its procedural regulations, the agency has treated that untimely petition as a petition for rulemaking.[3]

Harley-Davidson and Ford argued that, in their view, license plate holders are not lamps, reflective devices or associated equipment and, therefore, were not regulated under the pre-rewrite version of FMVSS No. 108. Harley-Davidson and Ford stated that since the pre-rewrite version of FMVSS No. 108 did not regulate license plate holders, regulating license plate holders in the final rule imposed a substantive change in the requirements of the standard contrary to the agency's stated policy in the final rule. Additionally, Harley-Davidson and Ford stated that the license plate mounting provisions of SAE J587 OCT81 were intended as instructions for evaluating the photometric performance of license plate lamps, not as a requirement for how license plates must be mounted on a vehicle. Finally, Harley-Davidson requested that if the agency decided that the license plate mounting angle was regulated under FMVSS No. 108, the agency amend the final rule so that the mounting angle requirements are the same as the most recent revision of SAE Standard J587 and the requirements in the European Union which both allow motorcycle license plates to be mounted at an angle 30 degrees upward from vertical.

[3] 49 CFR 553.35.

In its 2005 petition for rulemaking, MIC asked NHTSA to harmonize the license plate mounting angle requirements for motorcycles with European requirements. MIC argued that changing the license plate mounting angle would not adversely affect safety or interfere with law enforcement's ability to read license plates. MIC stated that by allowing a 30 degree upward angle, the license plate lamp can be physically located closer to the plate, retaining the incident angle and providing the same amount of illumination. Locating the license plate lamp closer to the plate would allow the rear of the motorcycle to be designed to be shorter with no effect on the real world illumination. MIC stated that harmonization also has benefits in reducing unnecessary design and manufacturing efforts, as well as reducing unnecessary parts-sourcing and parts-supply complexity, allowing manufacturers to apply these resource savings to other, more important issues.

In separate notices issued on April 26, 2011, NHTSA granted a petition for rulemaking to amend the license plate angle mounting requirement in FMVSS No. 108[4] and denied the petitions for reconsideration of the 2007 final rule on the same issue.[5] In the notice denying the petitions for reconsideration, NHTSA set forth the justification for why the agency considers the mounting angle of a license plate to be regulated under FMVSS No. 108. NHTSA is issuing this NPRM as a result of granting the petition for rulemaking to amend the license plate angle mounting requirement in paragraph S6.3.3 of FMVSS No. 108.

II. Agency Proposal

NHTSA is proposing to amend FMVSS No. 108 to change the license plate mounting requirements for motorcycles to allow license plate mounting angles of up to 30 degrees upward from vertical (an installed plate will face above the horizon) if the upper edge of the license plate is not more than 1.2 m (47.25 inches) from the ground. The maximum downward angle (an installed plate will face below the horizon) at which a motorcycle license plate could be mounted would remain 15 degrees as would the maximum upward angle on motorcycles for which the upper edge of the license plate was more than 1.2 m (47.25 inches) from the ground. NHTSA believes that amending the motorcycle license plate mounting angle requirements to allow mounting angles of up to 30 degrees upward from vertical if the upper edge of the license plate is not more than 1.2 m (47.25 inches) above the ground would reduce costs for manufacturers by allowing them to use the same mounting hardware for the license plate in both the U.S. and Europe. We do not believe that this proposal would compromise safety because the proposed changes to the license plate mounting angle requirement would not affect law enforcement or the public's ability to view the plate.

Amending the motorcycle license plate mounting requirements to make the requirements more in line with European regulations will increase manufacturer design flexibility without decreasing safety. Increasing manufacturer design flexibility and decreasing manufacturer costs in this case will allow manufacturers to better allocate resources which lead to increased compliance and increased safety. The agency is also soliciting comment on amending the mounting angle requirement for all other types of vehicles to allow license plates to be mounted at an angel of up to 30 degrees upward of vertical in order to maintain the consistency across vehicle classes that currently exist. After receiving public comment the agency may decide to allow license plates to be mounted on all vehicles at an angle of up to 30 degrees upward of vertical. The agency may also decide to allow license plates to be mounted at an angle of up to 30 degrees upward of vertical only on all vehicles with a gross vehicle weight rating of 10,000 pounds and less.

NHTSA is also soliciting comment on adopting the license plate mounting angle requirements contained in European Economic Community (EEC) Directive 93/94/EEC. Directive 93/94/EEC is different from the agency's proposal in that it permits a motorcycle license plate to be mounted up to 30 degrees upward from vertical if the upper edge of the license plate is not more than 1.5 m (59.1 inches) from the ground. Directive 93/94/EEC specifies that the upper edge of the license plate must not be more than 1.5 m above the ground when the vehicle is unladen while the agency's proposal does not contain a maximum mounting height for motorcycle license plates. Directive 93/94/EEC applies only to motorcycles and not other vehicles.

In addition to visually observing license plate characters by eye sight, many law enforcement and traffic management organizations use license plate recognition (reading) technology to read license plate characters. NHTSA

[4] *See* 76 FR 23254, (April 26, 2011) (granting petition for rulemaking).

[5] *See* 76 FR 23255, (April 26, 2011) (denying petitions for reconsideration).

invited one license plate reader manufacturer to demonstrate its equipment to NHTSA personnel.[6] Based on this demonstration and conversations with the manufacturer about the capabilities of the license plate reading system, NHTSA has tentatively concluded that allowing license plates to be mounted at an angle of 30 degree upward from vertical will not affect the ability of license plate recognition technology to read license plate characters. NHTSA seeks comment as to whether allowing motorcycle license plates to be mounted at an angle of 30 degrees upward from vertical will negatively affect the ability of license plate recognition technology to read license plate characters.

III. Costs, Benefits, and the Proposed Compliance Date

Because this proposal is intended to increase manufacturer design flexibility by amending the license plate mounting angle requirements for motorcycles, the agency does not anticipate that there will be any costs associated with this rulemaking action. The agency believes that this rulemaking action will result in minor benefits resulting from cost saving associated with increased design flexibility that would not exceed $0.05 per motorcycle. Because the agency does not believe that benefits from this rulemaking action will rise to the level that the action will be economically significant, the agency did not conduct a separate economic analysis for this rulemaking.

The agency proposes an effective date of 60 days after the final rule should one be published.

IV. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long.[7] We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments by any of the following methods:

- *Federal eRulemaking Portal:* go to *http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site by clicking on "Help" or "FAQ."
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[8]

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the Office of Management and Budget (OMB) and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.[9]

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments received after that date. Therefore, if interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule.

If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES.** The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

V. Regulatory Notices and Analyses

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The proposal contained in this rulemaking document does not result in any increased costs or significant benefits. Therefore, it is not considered to be significant under E.O. 12866 or the Department's regulatory policies and procedures.

[6] The demonstration was conducted on March 12, 2008, by Jason T. Laquatra/Vice President of Field Operations ELSAG North America, Law Enforcement Systems, and his associate.

[7] *See* 49 CFR 553.21.

[8] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

[9] *See* 49 CFR 512.

Executive Order 13609: Promoting International Regulatory Cooperation

The policy statement in section 1 of Executive Order 13609 provides, in part:

> The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

This notice proposes to more closely align the U.S. regulatory requirements for mounting motorcycle license plates with those of European countries. The proposed changes will increase manufacturer design flexibility without decreasing safety. Increasing manufacturer design flexibility and decreasing manufacturer costs in this case will allow manufacturers to better allocate resources which lead to increased compliance and increased safety.

NHTSA requests public comment on whether there are any "regulatory approaches taken by foreign governments" concerning the subject matter of this rulemaking, beyond those already mentioned in this notice, which the agency should consider.

National Environmental Policy Act

We have reviewed this proposal for the purposes of the National Environmental Policy Act and determined that it would not have a significant impact on the quality of the human environment.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." 13 CFR 121.105(a). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of the proposed rule under the Regulatory Flexibility Act. I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposal amends the license plate mounting angle for motorcycles. We do not anticipate that there will be any increased costs as a result of this rulemaking action. Accordingly, we do not anticipate that this proposal would have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposed rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would 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."

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which "[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law." 49 U.S.C. 30103(e) Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.*, 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this proposed rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (e.g., the language and structure of the regulatory text) and objectives of today's proposed rule and finds that this proposed rule, like many NHTSA rules, would prescribe only a minimum safety standard. As such, NHTSA does not intend that this proposed rule would preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's proposed rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard proposed here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, "Civil Justice Reform," [10] NHTSA has

[10] 61 FR 4729 (Feb. 7, 1996).

considered whether this rulemaking would have any retroactive effect. This proposed rule does not have any retroactive effect.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of a proposed or final rule that includes a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995).

Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This proposed rule is not anticipated to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually. The cost impact of this proposed rule is expected to be $0. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandate Reform Act.

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This proposed rule does not contain any collection of information requirements requiring review under the PRA.

Executive Order 13045

Executive Order 13045 [11] applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the proposed rule on children, and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule does not pose such a risk for children. The primary effects of this proposal are to amend the license plate mounting angle for motorcycles.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical.

Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specification and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material."

Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

While SAE J587 APR 1997, *License Plate Lamps (Rear Registration Plate Lamps),* contains a mounting angle requirement for motorcycles similar to the agency's proposal, the agency did not believe that it would be appropriate to adopt J587 APR 1997 in its entirety. FMVSS 108 currently requires that when a single lamp is used to illuminate the plate, the lamp and license plate holder shall bear such relation to each other that at no point on the plate will the incident light make an angle of less than 8 degrees to the plane of the plate. SAE J587 APR 1997 version eliminated this requirement. While the agency considered incorporating SAE J587 APR 1997 in its entirety, we concluded that the deletion of the test requirement to maintain an 8 degree relationship between the lamp and the license plate holder might negatively impact the direction toward which the plate reflects the light provided by the license plate lamp. For this reason the agency has decided to not to use a voluntary consensus standard in this regulatory activity.

Executive Order 13211

Executive Order 13211 [12] applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and 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. If the regulatory action meets either criterion, we must evaluate the adverse energy effects of the proposed rule and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by NHTSA.

This proposal amends the license plate mounting angle for motorcycles. Therefore, this proposed rule will not have any adverse energy effects. Accordingly, this proposed rulemaking action is not designated as a significant energy action.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

[11] 62 FR 19885 (Apr. 23, 1997).

[12] 66 FR 28355 (May 18, 2001).

- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Privacy Act

Anyone is able to search the electronic form of all 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 organization, 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 you may visit *http://www.dot.gov/privacy.html.*

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Chapter V as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Section 571.108 is amended by revising S6.6.3 and adding S6.6.3.1 and S6.6.3.2 to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S6.6.3 License plate holder. Each rear license plate holder must be designed and constructed to provide a substantial plane surface on which to mount the plate.

S6.6.3.1 Except as provided in S6.6.3.2, the plane of the license plate mounting surface and the plane on which the vehicle stands must be perpendicular within 15 degrees upward (an installed plate will face above the horizon) and 15 degrees downward (an installed plate will face below the horizon).

S6.6.3.2 For motorcycles on which the license plate is designed to be mounted on the vehicle such that the upper edge of the license plate is 1.2 m or less from the ground, the plane of the license plate mounting surface and the plane on which the vehicle stands must be perpendicular within 30 degrees upward (an installed plate will face above the horizon) and 15 degrees downward (an installed plate will face below the horizon).

* * * * *

Issued in Washington, DC, on August 22, 2013 under authority delegated in 49 CFR 1.95.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–21370 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2012–0088; 4500030113]

RIN 1018–AZ17

Endangered and Threatened Wildlife and Plants; Removing Five Subspecies of Mazama Pocket Gopher From the Candidate List for Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), remove five subspecies of Mazama pocket gopher (Tacoma, Brush Prairie, Shelton, Olympic, and Cathlamet) from the list of candidates for listing as threatened or endangered species under the Endangered Species Act of 1973, as amended. After review of the best available scientific and commercial information, we find that the Tacoma pocket gopher is likely extinct; the Brush Prairie pocket gopher was misidentified as a subspecies of Mazama pocket gopher and was added to the list in error; and listing of the Shelton, Olympic, and Cathlamet pocket gophers is not warranted. However, we invite the submission of any new information concerning the status of, or threats to, the Shelton, Olympic, or Cathlamet pocket gophers or their habitats to our Washington Fish and Wildlife Office (see **ADDRESSES** section) whenever it becomes available. New information will help us monitor these three subspecies of Mazama pocket gopher and encourage their conservation. If an emergency situation develops for any of these three subspecies or any other species, we will act to provide immediate protection. We will continue to monitor these three subspecies of Mazama pocket gopher as species of concern.

ADDRESSES: This notice and supporting documentation are available on the internet at *http://ecos.fws.gov/ecos/indexPublic.do* and *http://www.regulations.gov* (Docket No. FWS–R1–ES–2012–0088). Supporting documentation for this determination is also available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Lacey, WA 98503; by telephone at 360–753–9440; or by facsimile at 360–534–9331.

FOR FURTHER INFORMATION CONTACT: Ken S. Berg, Manager, Washington Fish and Wildlife Office (see **ADDRESSES**, above). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), requires that we identify species of wildlife and plants that are endangered or threatened, based on the best available scientific and commercial information. As defined in section 3 of the Act, an endangered species is any species which is in danger of extinction throughout all or a significant portion of its range, and a threatened species is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Through the Federal rulemaking process, we add species that meet these definitions to the List of Endangered and Threatened Wildlife at 50 CFR 17.11 or the List of Endangered and Threatened Plants at 50 CFR 17.12. As part of this program, we maintain a list of species that we regard as candidates for listing. A candidate species is one for which we have on file sufficient information on biological vulnerability and threats to support a proposal to list as endangered or threatened, but for which preparation and publication of a proposal is precluded by higher priority listing actions. We may identify a species as a candidate for listing after we have conducted an evaluation of its status on our own initiative, or after we have made a positive finding on a petition to list a species.

We maintain this list of candidates for a variety of reasons: To notify the public that these species are facing threats to their survival; to provide advance knowledge of potential listings that could affect decisions of environmental

planners and developers; to provide information that may stimulate and guide conservation efforts that will remove or reduce threats to these species and possibly make listing unnecessary; to request input from interested parties to help us identify those candidate species that may not require protection under the Act or additional species that may require the Act's protections; and to request necessary information for setting priorities for preparing listing proposals.

Previous Federal Actions for Mazama Pocket Gophers

On December 11, 2012, we published a proposed rule (77 FR 73770) to list four subspecies of Mazama pocket gopher as threatened under the Act and to designate critical habitat for these four subspecies in the State of Washington. In that document, we used the general term "Mazama pocket gopher" to refer collectively only to those subspecies of *Thomomys mazama* that occur in the State of Washington. The four subspecies we proposed for listing and designation were Roy Prairie *(Thomomys mazama glacialis)*, Olympia *(T. m. pugetensis)*, Tenino *(T. m. tumuli)*, and Yelm *(T. m. yelmensis)*. We also determined at that time that the Tacoma pocket gopher *(T. m. tacomensis)* is extinct, that the Brush Prairie pocket gopher *(T. m. douglasii)* is not a subspecies of *Thomomys mazama* and was added to the candidate list without basis, and that the listing of three other subspecies of Mazama pocket gopher (Olympic [*T. m. melanops*], Cathlamet [*T. m. louiei*], and Shelton [*T. m. couchi*]) is not warranted, and proposed to remove all five entities from our candidate list. For a description of previous Federal actions concerning the Mazama pocket gophers, please refer to the proposed rule (December 11, 2012; 77 FR 73770).

Summary of Comments and Recommendations

We requested written comments from the public on the proposed rule to list four subspecies of Mazama pocket gopher during two comment periods: The first opened December 12, 2012, and closed February 11, 2013, and the second opened April 3, 2013, and closed May 3, 2013 (78 FR 20074; April 3, 2013). During these open comment periods, we received comments from one of the peer reviewers, the State, and one private citizen regarding the five other subspecies of Mazama pocket gopher that we determined to be not warranted for listing under the Act. Below we address those comments that were relevant to these five subspecies. We fully considered all substantive information offered; however, none of the comments that we received changed our initial determination for these five subspecies described in the December 11, 2012, proposed rule (77 FR 73770).

Comments From Peer Reviewers

(1) *Comment:* A peer reviewer disagreed with our statement that it is not possible to conclusively determine that Brush Prairie pocket gopher is not *T. mazama*. This peer reviewer then provided a narrative that detailed the history of the taxonomic status of Brush Prairie pocket gopher, concluding that *T. talpoides douglasii* is clearly distinguishable from *T. mazama* using standard, scientifically accepted morphological characteristics to separate the species.

Our Response: We appreciate this account of the taxonomic status of Brush Prairie pocket gopher and the clarification in support of the taxonomic separation of the two species in our proposed determination. We have incorporated this information into our final determination for the Brush Prairie pocket gopher, below.

(2) *Comment:* A peer reviewer was concerned that our determination that the Tacoma pocket gopher is likely extinct may be premature. The peer reviewer stated that the "historical locations" are likely highly biased and certainly few in number, so the lack of appropriate habitat at those sites today does not mean that such habitat, and potential populations, do not occur elsewhere.

Our Response: The presumption of extinction for the Tacoma pocket gopher is based on well-documented habitat loss due to intense urban development, repeated negative surveys of known historical locations, and negative surveys of potentially suitable habitat throughout the subspecies' known range (for details, see our proposed rule dated December 11, 2012; 77 FR 73770, pp. 73773–73774). The State of Washington has likewise concluded that, based on extensive survey efforts over the past few decades and the observed loss and fragmentation of habitat, the Tacoma pocket gopher is likely extinct, the last record of this subspecies having been reported in 1974 (Stinson 2013, pp. 24–25).

Comments From the State

We received comments from the Washington Department of Fish and Wildlife (WDFW) and the Washington Department of Natural Resources (WDNR) related to biological information, threats, and recommendations for the management of habitat for one or more of these five subspecies.

On February 11, 2013, during our first public comment period, we received comments from WDFW on our proposed rule. We discussed these comments in a series of meetings. On April 19, 2013, during our second comment period on the proposed rule, we received additional comments from WDFW indicating appreciation for our responsiveness to their initial concerns and clarifying their perspective as a result of the productive conversations between our organizations. Below are our responses to the initial comment letter.

(3) *Comment:* WDFW asserted that it is difficult to argue that the Cathlamet pocket gopher still exists given it has not been found for more than 60 years, and recent surveys were conducted in 2012. They asserted that the Service used similar logic to conclude that the Tacoma pocket gopher is likely extirpated.

Our Response: The Service made the determination that the Cathlamet pocket gopher may still be extant based on the historically sporadic survey effort for the subspecies at the single site from which it was identified, and the lack of any survey effort across potentially suitable habitat in the surrounding area or even the extent of the soil type from which the type specimen was originally collected. This determination is in contrast to our presumption of extinction for the Tacoma pocket gopher, which is based on evidence from extensive survey efforts for the subspecies across suitable habitat and historical sites over many years, as well as the observed loss and fragmentation of its habitat to development (see also our response to Peer Review Comment 2, above). Based on our review of the best scientific and commercial data available, we have made different conclusions for the Cathlamet pocket gopher than for the Tacoma pocket gopher because surveys of all potential habitat have never been conducted for the Cathlamet pocket gopher. Land use has remained essentially the same since the type locality was discovered in 1949, which suggests that Cathlamet pocket gophers have not been affected by factors such as extensive residential development or the development of gravel mining operations. Consequently, we are not prepared to declare the species extinct (December 11, 2012; 77 FR 73770, p. 73776). In summary, as discussed in our proposed rule, unlike the four Thurston/Pierce subspecies of Mazama pocket gopher proposed for listing, we have no information to suggest that the Cathlamet pocket

gopher is similarly impacted by threats such as development, military training, or control as a pest species. Therefore, we have concluded that the Cathlamet pocket gopher does not meet the definition of threatened or endangered under the Act, and does not warrant listing (December 11, 2012; 77 FR 73770, p. 73790).

(4) *Comment:* WDNR acknowledged that factors affecting the conservation status of the Olympic pocket gopher are significantly different from those affecting the four Thurston/Pierce subspecies of Mazama pocket gopher proposed for listing, but believed its status is not, however, significantly different. WDNR believed the Olympic pocket gopher is confined to a very small and fragmented range, available habitat continues to be reduced by encroachment of woody species, population numbers are very low, and surviving animals face a theoretical, but likely, threat of predation by coyotes.

Our Response: We appreciate the comments from WDNR, but we did not receive any data in association with their comments to support the claims made. In response to WDNR's comment, the Service contacted Olympic National Park researchers directly and requested any quantifiable data relating to a number of factors, including encroachment of woody species into known occupied habitat, predation, extirpation, or manmade threats. We did not receive any data providing evidence that the Olympic pocket gopher faces population-level threats from factors such as predation by coyotes, thus we were unable to identify any metric that led us to conclude that the Olympic pocket gopher is threatened with extinction now or within the foreseeable future. The Olympic pocket gopher occurs entirely within the boundary of Olympic National Park and is secure from many of the threats facing the other Washington subspecies proposed for listing. Our review of the best scientific and commercial data available indicates that any factors that may be impacting the Olympic pocket gopher are relatively minor and are not resulting in population-level effects. Based on this review and as described in detail in the proposed rule (December 11, 2012; 73 FR 73770), we conclude that the Olympic pocket gopher does not meet the definitions of an endangered or threatened species under the Act.

(5) *Comment:* Both WDNR and WDFW commented that available habitat for the Olympic pocket gopher appears to continue to be reduced due to invasion by woody vegetation. In addition, WDFW asserted that encroachment of woody vegetation is likely impacting the Shelton and Cathlamet pocket gophers. They stated that the succession to forest that eliminates habitat is much more prevalent in Mason County than in Thurston and Pierce counties, and Scot's broom *(Cytisus scoparius)* is also a problem.

Our Response: Although we acknowledge that woody vegetation encroachment could be a threat, we have not located nor been provided any data with which to quantify this potential threat to the Olympic, Shelton, or Cathlamet pocket gophers. However, we encourage collection of data on encroachment of woody vegetation to monitor this potential threat to these subspecies.

(6) *Comment:* WDFW suggested that conversion from forest cover to development is likely to reduce the availability of potentially suitable habitat for the Shelton pocket gopher in Mason County in the future. However, WDFW also pointed out that recent openings created by timber harvest can result in suitable, but currently ephemeral, habitat for Shelton pocket gophers.

Our Response: In making our determination, the Service considers whether threats to the species are such that the species is presently in danger of extinction (endangered) or likely to become so within the foreseeable future (threatened). Although we agree that loss of suitable habitat from conversion of forest land to development has the potential to negatively impact individuals of the Shelton pocket gopher, we have no evidence to suggest that the severity or rate of development in Mason County in the future rises to the level of a population-level threat such that the subspecies as a whole is presently in danger of extinction, or will become threatened with extinction within the foreseeable future (see analysis in our proposed rule, December 11, 2012; 77 FR 73770, p. 73778).

(7) *Comment:* WDFW stated that the summary statement for Factor E in our threats analysis for all nine subspecies was not well supported. Specifically, they indicate no evidence was presented in the proposal to support the occurrence of "reductions in population size, loss of genetic diversity, reduced gene flow among populations, destruction of population structure, and increased susceptibility to local population extirpation."

Our Response: It is true that few to no data support changing trends in population numbers for Mazama pocket gophers. What is clear is that suitable habitat for some subspecies of Mazama pocket gopher is increasingly lost to development, fragmented, reduced, or completely eliminated, and that connective habitat corridors allowing for gene flow have been permanently lost through conversion to incompatible land uses. Based on the evidence from the extinction of the Tacoma pocket gopher, the Service infers that when habitat or connective corridors are lost to development, the opportunity for recolonization of previously occupied habitat patches is also lost, leading to a reduction in gene flow between populations and reduced population numbers. However, we have no evidence to suggest that these factors are affecting the Olympic, Shelton, or Cathlamet subspecies of Mazama pocket gopher to a degree that makes them in danger of extinction at the present time, or likely to become endangered within the foreseeable future. We also refer readers to the proposed rule (December 11, 2012; 77 FR 73770, pp. 73786–73789) for citations supporting the concluding statement under factor E.

(8) *Comment:* WDFW indicates the following statement "this subspecies [Shelton pocket gopher] is highly restricted in its range, the few threats identified occur throughout its range, and the threats are not restricted to any portion of its range" could apply to any and all of the Mazama pocket gopher subspecies in Washington. The only exception is that military training affects some of the Thurston and Pierce subspecies and not others. Thus they were not sure how this could be used as an argument against listing the Shelton pocket gopher.

Our Response: Our determination of "not warranted" was based on whether or not the threats were active, not the similarity to threats affecting other subspecies of pocket gopher. However, we have no evidence to suggest that these factors are affecting the Shelton subspecies of Mazama pocket gopher to a degree that makes them in danger of extinction at the present time, or likely to become endangered within the foreseeable future (see our proposed rule, December 11, 2012; 77 FR 73770, pp. 73789–73790).

Findings

Here we affirm our final determinations on the actions as stated in the proposed rule (December 11, 2012; 77 FR 73770):

Removal of the Tacoma Pocket Gopher From the Candidate List

The first identified specimen of the Tacoma pocket gopher *(Thomomys mazama tacomensis)* was collected in 1853 by Suckley and Cooper (1860) at

Fort Steilacoom, but was first described by Taylor (1919, pp. 169–171). Verts and Carraway (2000, p. 1) recognize the Tacoma pocket gopher as a separate subspecies based on morphological characteristics and distribution. Its range spanned from Point Defiance in Tacoma, south to Steilacoom, and perhaps as far east as Puyallup. In 1920, Tacoma pocket gophers were collected in Parkland and there are subsequent reports of gophers being caught in Puyallup (Scheffer, unpubl. notes, 1957). Original collection sites were long ago converted to residential and suburban development, and one site is now a gravel mining operation. By 1970, Johnson (Johnson 1982, *in litt.*) believed Tacoma pocket gophers were locally extirpated. Surveys conducted in the early 1990s by Steinberg (1996a), again in 1998 (Stinson 2005, p. 120), and during an extensive survey of historical and potential habitat in the subspecies' known range in 2011 (Tirhi 2012a, *in litt.*) failed to relocate gophers at any of the previously documented locations. Surveys were conducted during the time of year when gopher activity should have been seen if gophers were present.

The soils series in the area of the historical local populations are Alderwood, Bellingham, Everett, Nisqually, and Spanaway. The entire historical area has been heavily developed since the type locality for this subspecies was found in 1918 (Taylor 1919, p. 169). Based on repeated surveys of previously populated areas where gophers have not been redetected (Steinberg 1995; Tirhi 2012a, *in litt.*), the lack of documented evidence of the Tacoma pocket gopher over the last three decades, and the lack of appropriate habitat left at historical locations, we conclude the Tacoma pocket gopher is extinct. We, therefore, remove the Tacoma pocket gopher *(T. m. tacomensis)* from the candidate list.

Removal of the Brush Prairie Pocket Gopher From the Candidate List

In our 2007 Notice of Review of Native Species That Are Candidates for Listing as Endangered or Threatened—Candidate Notice of Review (CNOR) (72 FR 69034; December 6, 2007), we added the Brush Prairie pocket gopher *(Thomomys mazama douglasii)* to the list of candidate species. The addition was made following a review by the State of Washington, which recognized the Brush Prairie pocket gopher as a subspecies of *Thomomys mazama* instead of *Thomomys talpoides* based on current (at the time) genetic data and morphological features. At that time, since all of the subspecies of Mazama pocket gophers in the State of Washington were considered candidates for listing, the Service accepted the classification of the Brush Prairie pocket gopher as a subspecies of the Mazama pocket gopher and added it to the candidate list without additional evaluation.

We have now further investigated the genetic and morphological information originally used to add the subspecies to the candidate list based on the presumption that it was a Mazama pocket gopher (Kenagy 2012, pers. comm.; Paulson 2012, pers. comm.; Welch 2012a, b, *in litt.*). In our proposed rule (December 11, 2012; 77 FR 73770, p. 73774), we pointed to the lack of evidence to support the conclusion that the Brush Prairie pocket gopher is in fact a subspecies of *Thomomys mazama*, and additionally noted that Verts and Carraway (2000, p. 1) do not recognize the Brush Prairie pocket gopher as a member of *T. mazama*. Peer review of our proposed rule provided definitive support of our conclusion that the Brush Prairie pocket gopher is not a subspecies of the Mazama pocket gopher. Therefore, based upon review of the best scientific and commercial data available, we no longer believe the Brush Prairie pocket gopher is a member of the species *T. mazama*.

The Service erred by failing to conduct a separate five-factor threats analysis when we added the Brush Prairie pocket gopher to the candidate list as *Thomomys mazama douglasii*, and we now believe it was added in error and without basis. The Brush Prairie pocket gopher was added to the candidate list in 2007 based purely on the presumption that it was a Washington subspecies of Mazama pocket gopher, and because all other Washington subspecies of Mazama pocket gophers were candidates. As such, we believe it was added to the candidate list in error. We, therefore, remove the Brush Prairie pocket gopher *(T. m. douglasii)* from the candidate list.

Removal of the Olympic Pocket Gopher From the Candidate List

The Olympic pocket gopher occupies isolated alpine meadows in the Olympic National Park in Clallam County. We find that the effects due to small or isolated populations have likely had some negative impacts to the subspecies; however, we have no information to suggest that these impacts rise to the level such that the subspecies is in danger of extinction or likely to become so within the foreseeable future. This species also exhibits low genetic diversity; however, again we have no evidence to suggest that the consequences of this are such that the subspecies is in danger of extinction, or likely to become so within the foreseeable future. This subspecies is highly restricted in its range, the few factors potentially impacting the subspecies occur throughout its range, and these factors are not restricted to any particular portion of its range. However, none of the impacts faced by the Olympic pocket gopher are particularly grave or immediate, such that would lead us to conclude that the subspecies is presently in danger of extinction or likely to become so within the foreseeable future, and we do not have information to suggest that the subspecies is suffering from any recent declines in abundance or distribution (see the proposed rule for the full threats analysis of the Olympic pocket gopher, December 11, 2012; 77 FR 73770).

Occurring entirely within the boundaries of a National Park, the Olympic pocket gopher appears secure from many of the threats facing the other Washington subspecies of Mazama pocket gophers, such as habitat loss to development, encroachment by woody vegetation, or predation by feral cats and dogs. The best available information indicates that the factors impacting the Olympic pocket gopher are relatively minor and are not resulting in population-level effects such that the subspecies is currently in danger of extinction, or likely to become so within the foreseeable future. For these reasons and those discussed in the proposed rule previously (December 11, 2012; 77 FR 73770), we find that the Olympic pocket gopher *(Thomomys mazama melanops)* does not meet the definition of an endangered or a threatened species and does not warrant listing under the Act. Therefore, we remove the Olympic pocket gopher *(T. m. melanops)* from the candidate list.

Removal of the Shelton Pocket Gopher From the Candidate List

The Shelton pocket gopher used to range across the open prairies and grasslands of Mason County, and is now also known to inhabit low-elevation meadow-type areas in Mason County. We find that the effects due to small or isolated populations have likely had some negative impacts to the subspecies; however, we have no information to suggest that these impacts rise to the level such that the subspecies is in danger of extinction or likely to become so within the foreseeable future. This subspecies is highly restricted in its range, the few factors potentially impacting the subspecies occur throughout its range, and these factors are not restricted to

any particular portion of its range. Although likely impacted by development in the past, we have no information to suggest that ongoing or future development poses a threat to this subspecies, and beneficial management plans are in place for some of the larger populations of the Shelton pocket gopher. The full threats analysis for the Shelton pocket gopher is provided in the proposed rule published December 11, 2012 (77 FR 73770).

The Shelton pocket gopher is not currently affected by many of the threats that have had severe impacts on other Washington subspecies of Mazama pocket gopher, such as habitat loss due to residential or commercial development, encroachment of woody vegetation, or predation by cats and dogs. We have no evidence that the Shelton pocket gopher is experiencing population-level effects from the factors identified, and new local populations of the subspecies have been identified. Based on the best available information, we conclude that the factors impacting the Shelton pocket gopher are relatively minor and that the subspecies is not currently in danger of extinction, or likely to become so within the foreseeable future. For these reasons and those discussed in the proposed rule previously (December 11, 2012; 77 FR 73770), we find that the Shelton pocket gopher *(Thomomys mazama couchi)* does not meet the definition of an endangered or a threatened species and does not warrant listing under the Act. Therefore, we remove the Shelton pocket gopher *(T. m. couchi)* from the candidate list.

Removal of the Cathlamet Pocket Gopher From the Candidate List

The Cathlamet pocket gopher occurs in low-elevation meadow-type areas in Wahkiakum County. The subspecies is found in a limited-extent soil type on commercial timber lands. In the Service's review of this subspecies previously (USFWS 2010, pp. 5–6), it was characterized as likely extinct. However, based on our further review of information, we determined that further surveys of the type locality and surrounding area are needed to determine the status of this subspecies, as thorough surveys of all potential habitat were never conducted. In addition, land use within the type locality has remained the same since the subspecies was discovered in 1949 (Gardner 1950), suggesting that threats such as residential development, predation by cats or dogs, or control as a pest species have not impacted the Cathlamet pocket gopher, such that the subspecies may remain extant. The full threats analysis for the Cathlamet pocket gopher is provided in the proposed rule published December 11, 2012 (73 FR 73770).

The range and distribution of the Cathlamet pocket gopher has not been completely surveyed, and its type locality still exists. The available evidence suggests that, due to the nature of the area occupied by the subspecies and the fact that land use has not changed significantly since it was first identified, any factors potentially impacting the Cathlamet pocket gopher are likely relatively minor and are not restricted to any particular portion of its range. For these reasons and those discussed in the proposed rule previously (December 11, 2012; 77 FR 73770), we have determined that the Cathlamet pocket gopher *(Thomomys mazama louiei)* does not meet the definition of an endangered or a threatened species and does not warrant listing under the Act. Therefore, we remove the Cathlamet pocket gopher *(T. m. louiei)* from the candidate list.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this package are the staff members of the Washington Fish and Wildlife Office, Lacey, Washington.

Authority

This notice is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 21, 2013.

Stephen Guertin,

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

[FR Doc. 2013–21377 Filed 8–30–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Nos. FWS–R1–ES–2012–0088; FWS–R1–ES–2013–0021]

RIN 1018–AZ17; 1081–AZ37

Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determination for the Proposed Listing and Designation of Critical Habitat for Four Subspecies of Mazama Pocket Gopher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the final determination of whether to list four subspecies of Mazama pocket gopher (Roy Prairie, Olympia, Tenino, and Yelm) as threatened and reopen the comment period on the proposed rule to list and designate critical habitat for the four subspecies. We are taking this action because there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing and critical habitat rule, making it necessary to solicit additional information by reopening the comment period for 45 days. In addition, we are considering broadening the scope of the special rule for the four subspecies proposed under section 4(d) of the Endangered Species Act, and specifically seek public comment on this issue.

DATES: The comment period end date is October 18, 2013. Please note comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**) must be entered no later than 11:59 p.m. Eastern Time on the closing date. Any comments we receive after the closing date may not be considered in the final decisions on these actions.

ADDRESSES: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. Search for Docket Nos. FWS–R1–ES–2012–0088 (for listing) or FWS–R1–ES–2013–0021 (for designation of critical habitat), which are the docket numbers for this rulemaking.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2012–

0088 (for listing) or FWS–R1–ES–2013–0021 (for designation of critical habitat); Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Ken S. Berg, Manager, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Lacey, WA 98503; by telephone at 360–753–9440; or by facsimile at 360–534–9331. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Proposed Listing of the Four Subspecies of Mazama Pocket Gopher as Threatened

On December 11, 2012, we published a proposed rule (77 FR 73770) to list four subspecies of Mazama pocket gopher (Roy Prairie [*Thomomys mazama glacialis*], Olympia [*T. m. pugetensis*], Tenino [*T. m. tumuli*], and Yelm [*T. m. yelmensis*]) as threatened, and to designate critical habitat for these four subspecies in Washington under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). For a description of previous Federal actions concerning the Mazama pocket gophers, please refer to the proposed rule. In addition to the original 60-day comment period associated with the publication of the proposed rule, we held two public information workshops and one public hearing in April 2013, and reopened the comment period for an additional 30 days to accept additional public comments (78 FR 20074; April 3, 2013). That comment period closed on May 3; 2013.

Section 4(b)(6) of the Act requires that we take one of three actions within 1 year of a proposed listing: (1) Finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination, for the purposes of soliciting additional data.

Since the publication of the proposed rule, there has been substantial disagreement regarding the interpretation of the available information used to determine the status and trends of the four subspecies of Mazama pocket gopher, and the extent of threats to these subspecies. We received comments from the Washington Department of Fish and Wildlife (WDFW), U.S. Department of Agriculture Natural Resources Conservation Service (NRCS), and others that questioned the accuracy or sufficiency of the available data we used to assess the threat of various agricultural and ranching activities to the Mazama pocket gophers. Based on subsequent discussions with the Washington Department of Agriculture and NRCS, we have determined that these assertions may have some validity. In collaboration with these agencies, we are currently embarking on a process to complete an assessment on previously inaccessible private lands to more clearly determine and clarify the impacts of various agricultural and ranching practices on the Mazama pocket gophers. This information would assist in addressing the substantial uncertainty that exists regarding the degree of threat posed by different agricultural and ranching practices on private lands. This 6-month extension will allow the Service to ensure that we have obtained all relevant information from knowledgeable State and Federal agencies, as well as other interested parties, to better inform our final decision.

Therefore, in consideration of the disagreements surrounding the status of the four subspecies of the Mazama pocket gopher, we are extending the final determination for up to 6 months in order to solicit information that will help to clarify these issues. We will publish a final listing determination and, if listing is warranted, a final critical habitat designation in the **Federal Register** on or before March 31, 2014. The Service's work plan, which was filed as part of the approved settlement with the Wild Earth Guardians in a consolidated case in the U.S. District Court for the District of Columbia, required the Service to issue a proposed listing rule or not warranted finding for the Washington State Mazama pocket gopher subspecies by the end of fiscal year 2012 and publish final listing determinations in accordance with the statutory deadlines. The Service received an extension from the court allowing us to deliver the proposed rules or not warranted findings to the Federal Register by November 29, 2012. The order granting the extension also committed the Service to deliver the final determinations to the Federal Register by September 30, 2013, unless the Service found there was substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the listing determinations, in which case the Service agreed to submit final determinations for these subspecies to the Federal Register on or before March 31, 2014.

Public Comments

We will accept written comments and information during this reopened comment period on our proposed listing and proposed designation of critical habitat for the four subspecies of Mazama pocket gopher that was published in the **Federal Register** on December 10, 2012 (77 FR 73770). We will consider information and recommendations from all interested parties. We intend that any final action resulting from this proposal be as accurate as possible and based on the best available scientific and commercial data.

Therefore, in consideration of the disagreements surrounding the status of the four subspecies of Mazama pocket gopher, we are extending the final determination for up to 6 months in order to solicit information that will help to clarify these issues.

We are particularly interested in new information regarding:

(1) Threats associated with agricultural or ranching practices to Mazama pocket gophers in Washington.

(2) Threats associated with high-density commercial, industrial, and residential development or urbanization to Mazama pocket gophers in Washington.

(3) Distribution and relative abundance of Mazama pocket gophers, including maps and survey information, in Washington.

Please note that we are taking comments on the proposed listing and the proposed critical habitat under separate Docket Numbers for the final rulemaking. For comments relevant to the proposed listing, please refer to Docket No. FWS–R1–ES–2012–0088. For comments relevant to the proposed critical habitat, please refer to Docket No. FWS–R1–ES–2013–0021. *Proposed 4(d) Special Rule for the Four Subspecies of Mazama Pocket Gopher—Additional Provisions Under Consideration*

We are also taking this opportunity to reevaluate our proposed 4(d) special rule published in the **Federal Register** on December 11, 2012 (77 FR 73770), based on comments received to date, and are seeking additional input from the public. Under the authority of section 4(d) of the Act, the Secretary

may publish a special rule that modifies the standard protections for threatened species with special measures tailored to the conservation of the species that are determined to be necessary and advisable to provide for the conservation of the subspecies. As a means to promote the conservation of the four subspecies of Mazama pocket gopher, we are proposing special rules for these subspecies under section 4(d) of the Act. In the case of a special rule, the general regulations (50 CFR 17.31 and 17.71) applying most prohibitions under section 9 of the Act to threatened species do not apply, and the special rule contains the prohibitions necessary and appropriate to conserve the species. Note that a 4(d) special rule will not remove or alter in any way the consultation requirements under section 7 of the Act.

In the special rule for the four subspecies of Mazama pocket gopher in our proposed rule of December 11, 2012 (77 FR 73770), take of these subspecies caused by restoration—and/or maintenance-type activities by airports on non-Federal lands and ongoing single-family residential noncommercial activities would be exempt from section 9 of the Act. These activities included mechanical weed and grass removal on airports. We also proposed to exempt certain construction activities that occur in already-developed sites within single-family residential development footprints. These included the placement of above-ground fencing, garden plots, children's play equipment, residential dog kennels, and storage sheds and carports. In addition, we also proposed to exempt certain normal farming or ranching activities, including: Grazing, routine fence and structure maintenance, mowing, herbicide use, burning, and other routine activities. The intent of our initial proposed special rule was to allow certain activities anticipated to have limited harmful impacts to Mazama pocket gophers while encouraging landowners to continue to maintain those areas that are not only important for airport safety, agricultural use, and restoration activities, but also provide habitat for the four Thurston/Pierce subspecies of Mazama pocket gopher. On Federal lands, airport restoration and maintenance type activities will be addressed through the section 7 process should the subspecies be listed. We received numerous comments from the public during our open comment periods regarding the timing, extent, and methods used to carry out these various activities and are revisiting our previous restrictions associated with our proposed 4d special rule.

We see meaningful opportunities to conserve the four subspecies of Mazama pocket gopher by allowing and promoting ongoing, and possibly new, activities on non-Federal lands that contribute to the conservation of these subspecies. The Service is continuing to evaluate the range and scope of activities that may be consistent with the conservation of the gophers and the range of options for providing "take" coverage (e.g., special rules, Habitat Conservation Plans, Safe Harbor Agreements, and other types of conservation agreements) for non-Federal landowners conducting these activities that further Mazama pocket gopher conservation. For example, activities related to conservation programs, or additional activities related to ranching or agriculture (both discussed in further detail below), may be considered for take exemption. Therefore, we are considering possible additional provisions to the special rule, and we particularly seek information and comments regarding:

(1) What measures are necessary and advisable for the conservation and management of the Mazama pocket gopher that are appropriate for a proposed 4(d) special rule to encourage landowners to manage their lands for the benefit of the Mazama pocket gophers.

(2) Information regarding the types of activities that occur within Mazama pocket gopher habitat and how they are or can be implemented (e.g., timing, extent) consistent with maintaining or advancing conservation of the gophers.

(3) Whether the Service should expand the scope of the 4(d) special rule to allow incidental take of Mazama pocket gophers if the take results from implementation of a comprehensive State conservation program or regional or local conservation programs.

(4) Information concerning whether it would be appropriate to include in the 4(d) special rule a provision for take of Mazama pocket gophers in accordance with applicable State law for educational or scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(5) Additional provisions the Service may wish to consider for a 4(d) special rule in order to conserve, recover, and manage the Mazama pocket gopher.

Please submit any comments related to the proposed 4(d) special rule to Docket No. FWS–R1–ES–2012–0088, which pertains to the proposed listing of the four subspecies of Mazama pocket gopher.

State, Regional, and Local Conservation Programs

In addition to our original proposal exempting take associated with certain individual activities associated with agricultural lands, airports, and single-family residential properties, the Service is also considering exempting take incidental to activities conducted pursuant to a comprehensive State conservation program or regional or local conservation programs. We anticipate that conservation programs covered under such a 4(d) rule would need to be developed and administered by an entity having jurisdiction or authority over the activities in the program; would need to be approved by the Service as adequately protective to provide a conservation benefit to the Mazama pocket gopher; and may need to include adaptive management, monitoring, and reporting components sufficient to demonstrate that the conservation objectives of the plan are being met. For example, a comprehensive conservation program that has a clear mechanism for enrollment of participating landowners that want to manage their lands for the benefit of the Mazama pocket gopher may not be prohibited from taking Mazama pocket gopher. In making its determination, the Service would consider:

(i) How the program addresses the threats affecting the Mazama pocket gophers within the program area;

(ii) How the program establishes objective, measurable biological goals and objectives for population and habitat necessary to ensure a conservation benefit, and provides the mechanisms by which those goals and objectives will be achieved;

(iii) How the program administrators demonstrate the capability and funding mechanisms for effectively implementing all elements of the conservation program, including enrollment of participating landowners, monitoring of program activities, and enforcement of program requirements;

(iv) How the program employs an adaptive management strategy to ensure future program adaptation as necessary and appropriate; and

(v) How the program includes appropriate monitoring of effectiveness and compliance.

The considerations presented here are meant to encourage the development of efforts to improve habitat conditions and the status of the four subspecies of Mazama pocket gopher across their ranges. For the Service to approve

coverage of a comprehensive, regional, or local conservation program under the 4(d) special rule being considered, the program must provide a conservation benefit to Mazama pocket gophers. Conservation, as defined in section 3(3) of the Act, means "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary." The program may also be periodically reviewed by the Service to determine that it continues to provide the intended conservation benefit to the Mazama pocket gophers. As a result of this provision, the Service expects that conservation actions will be implemented with a high level of certainty that the program will lead to the long-term conservation of the four subspecies of Mazama pocket gopher.

Agricultural and Ranching Activities

The Service is considering exempting take of Mazama pocket gopher on non-Federal lands when those lands are managed following technical guidelines that have been developed in coordination with a State or Federal agency or agencies responsible for the management and conservation of fish and wildlife, or their agent(s), and that has been determined by the Service to provide a conservation benefit to Mazama pocket gophers. Individual non-Federal landowners following these specific technical guidelines may be exempted from take prohibitions. Guidelines should incorporate procedures, practice standards, and conservation measures that promote the continued existence of the four subspecies of Mazama pocket gopher.

Ideally, appropriate guidelines would be associated with a program that would provide financial and technical assistance to participating landowners to implement specific conservation measures beneficial to the Mazama pocket gophers that also contribute to the sustainability of landowners' agricultural or ranching operations. Conservation measures encompassed by such a program should be consistent with management or restoration of prairie habitats for Mazama pocket gophers and include brush management, prescribed grazing, range planting, prescribed burning, and set asides for conservation areas.

We believe including such a provision in a 4(d) special rule for agricultural and ranching activities will promote conservation of the species by encouraging agricultural landowners and ranchers with Mazama pocket gophers to continue managing the remaining landscape in ways that meet the needs of their operations while simultaneously supporting suitable habitat for the gophers as well as other prairie-dependent species.

We will consider all comments and information received during our preparation of a final determination on the status of the four subspecies and the 4(d) special rule, and, if appropriate, a final designation of critical habitat. Accordingly, the final decision may differ from our original proposal.

If you previously submitted comments or information on the proposed rule during the two previously open comment periods, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning the proposed listing and proposed designation of critical habitat will take into consideration all written comments and any additional information we received.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov*, your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2012–0088 and FWS–R1–ES–2013–0021, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2012–0088, or by mail from the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Washington Fish and Wildlife Office, Pacific Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 21, 2013.

Stephen Guertin,

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

[FR Doc. 2013–21376 Filed 8–30–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0092; 4500030113]

RIN 1018–AY77

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to Downlist Hesperocyparis abramsiana (=Cupressus abramsiana), and Proposed Rule to Reclassify H. abramsiana as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 12-month finding on a petition to reclassify *Hesperocyparis abramsiana* (=*Cupressus abramsiana*) (Santa Cruz cypress) as threatened under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that reclassifying Santa Cruz cypress as threatened is warranted, and therefore, we propose to reclassify Santa Cruz cypress as threatened under the Act. We also propose to correct the scientific name of Santa Cruz cypress on the List of Endangered and Threatened Plants. We are seeking information and comments from the public regarding this proposed rule and 12-month finding.

DATES: We will accept comments received or postmarked on or before November 4, 2013. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by October 18, 2013.

ADDRESSES: *Comment submission:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://*

www.regulations.gov. In the Search box, enter FWS–R8–ES–2013–0092, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0092; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Information Requested section below for more information).

Document availability: A copy of the Species Report referenced throughout this document can be viewed at *http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=R005*, at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0092, or at the Ventura Fish and Wildlife Office's Web site at *http://www.fws.gov/ventura/*.

FOR FURTHER INFORMATION CONTACT: Stephen P. Henry, Deputy Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003; telephone 805–644–1766; facsimile 805–644–3958. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend any final action resulting from this proposal will be based on the best scientific and commercial data available, and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, tribes, the scientific community, industry, or other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) Reasons why we should or should not reclassify Santa Cruz cypress under the Act (16 U.S.C. 1531 *et seq.*).

(2) New biological or other relevant data concerning any threat (or lack thereof) to this species.

(3) New information concerning the population size or trends of this species.

(4) New information on how Santa Cruz cypress responds to fire, especially as it pertains to prescribed fire and alternatives to prescribed fire (e.g., mechanical disturbance) that would support increased recruitment for this species.

(5) New information on the current or planned activities within the range of the species that may adversely affect or benefit the species.

(6) New information or data on the projected and reasonably likely impacts to Santa Cruz cypress or its habitat associated with climate change.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearings

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. We must receive your request within 45 days after the date of this **Federal Register** publication. Send your request to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (50 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. A thorough review of information that we relied on in preparing this proposed rule—including information on taxonomy, life-history, ecology, population distribution and abundance, and potential threats—is presented in the Santa Cruz Cypress Species Report (Service 2013) available at *www.regulations.gov* (Docket Number FWS–R8–ES–2013–0092). The purpose of peer review is to ensure that decisions are based on scientifically sound data, assumptions, and analyses. A peer review panel will conduct an assessment of the proposed rule, and the specific assumptions and conclusions regarding the proposed downlisting. This assessment will be completed during the public comment period.

We will consider all comments and information we receive during the comment period on this proposed rule as we prepare the final determination. Accordingly, the final decision may differ from this proposal.

Previous Federal Action

We proposed to list Santa Cruz cypress (as *Cupressus abramsiana*) as an endangered species under the Act on September 12, 1985 (50 FR 37249), based on threats from residential development, agricultural conversion, logging, oil and gas drilling, and the alteration of the natural fire regime that maintains the stands. We published a final rule listing Santa Cruz cypress as an endangered species (which included an additional threat, genetic introgression, not listed in the proposed rule) in the **Federal Register** on January 8, 1987 (52 FR 675). We finalized a recovery plan for Santa Cruz cypress (Recovery Plan) in September 1998 (Service 1998).

Under the Act, we maintain the Lists of Endangered and Threatened Wildlife and Plants at 50 CFR 17.11 (for animals) and 17.12 (for plants) (Lists). We amend the Lists by publishing final rules in the **Federal Register**. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Section 4(c)(2)(B) requires

that we determine: (1) Whether a species no longer meets the definition of endangered or threatened and should be removed from the Lists (delisted), (2) whether a species listed as endangered more properly meets the definition of threatened and should be reclassified to threatened (downlisted), or (3) whether a species listed as threatened more properly meets the definition of endangered and should be reclassified to endangered (uplisted). In accordance with 50 CFR 424.11(d), using the best scientific and commercial data available, we will consider a species for delisting only if the data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered recovered; or (3) the original data available when the species was listed, or the interpretation of such data, were in error.

We published a notice announcing active review and requested public comments concerning the status of Santa Cruz cypress under section 4(c)(2) of the Act on February 14, 2007 (72 FR 7064). We notified the public of completion of the 5-year review on May 21, 2010 (75 FR 28636). The 5-year review, completed on August 17, 2009 (Service 2009), resulted in a recommendation to change the status of the species from endangered to threatened. A copy of the 2009 5-year review for Santa Cruz cypress is available on the Service's Environmental Conservation Online System (*http://ecos.fws.gov/docs/five_year_review/doc2551.pdf*).

On December 21, 2011, we received a petition dated December 19, 2011, from the Pacific Legal Foundation, requesting the Service to delist the Inyo California towhee (*Pipilo crissalis eremophilus*), and to reclassify from endangered to threatened the arroyo toad *(Anaxyrus californicus)*, Modoc sucker (*Catostomus microps*), *Eriodictyon altissimum* (Indian Knob mountainbalm), *Astragalus jaegerianus* (Lane Mountain milk-vetch), and Santa Cruz cypress. The petition was based on the analysis and recommendations contained in the most recent 5-year reviews for these taxa. On June 4, 2012 (77 FR 32922), we published in the **Federal Register** a 90-day finding for the 2011 petition to reclassify these six taxa. In our 90-day finding, we determined the 2011 petition provided substantial information indicating the petitioned actions may be warranted, and we initiated status reviews for each species. This proposed downlisting rule constitutes the 12-month finding and our 5-year status review for Santa Cruz cypress; 12-month findings for the other petitioned species will be addressed separately and published in the **Federal Register** in the future.

Background

A scientific analysis was completed and presented in detail within the Santa Cruz Cypress Species Report (Service 2013, entire), which is available at *http://www.regulations.gov* at Docket Number FWS–R8–ES–2013–0092. The Species Report was prepared by Service biologists to provide thorough discussion of the species ecology, biological needs, and analysis of the threats that may be impacting the species. The Species Report includes discussion of the following: species description, taxonomy, life history, habitat, distribution, abundance, population descriptions, age and size class distribution, threats analysis, progress towards recovery, and research needs. This detailed information is summarized in the following paragraphs of this Background section and the Summary of Factors Affecting the Species section.

Santa Cruz cypress is a small-statured tree in the cypress family (Cupressaceae), with mature trees averaging 20 to 33 feet (6 to 10 meters) in height (Bartel 2012, p. 138). Reproductive maturity is reached at an average age of 11 years, although some individuals produce cones earlier (Kuhlmann 1986, p. 8). The potential lifespan of the Santa Cruz cypress is approximately 100 years or longer (Service 2013, p. 9).

The taxonomy of and relationships among members of the cypress family (Cupressaceae) have undergone many revisions, as described in greater detail in the Species Report (Service 2013, pp. 8–9). Most recently, a new genus, *Hesperocyparis* Bartel and Price, was described to recognize that the western hemisphere *Cupressus* taxa, including Santa Cruz cypress, comprise a group quite separate from the eastern hemisphere taxa (Adams *et al.* 2009, p. 180). This taxonomic revision, published since listing, changed the name of the listed entity from *Cupressus abramsiana* to *Hesperocyparis abramsiana*, but did not alter the definition, distribution, or range of the species from what it was at the time of listing. Based on this revision, we include in this document a proposed correction to this taxon's scientific name, to list it as *Hesperocyparis abramsiana* on the List of Endangered and Threatened Plants at 50 CFR 17.12(h).

Recent taxonomic evaluations of *Hesperocyparis abramsiana* have identified two varieties of the species: *H. a.* var. *abramsiana* and *H. a.* var. *butanoensis* (San Mateo cypress) (Adams and Bartel 2009). The listed entity includes all members of this species (i.e., both varieties currently have the same protections under the Act), which are represented by one population in San Mateo County, California (*H. a.* var. *butanoensis;* known as the Butano Ridge population), and four populations in Santa Cruz County, California (*H. a.* var. *abramsiana;* known as the Eagle Rock, Bracken Brae, Bonny Doon, and Majors Creek populations). These five populations comprise eight distinct stands (trees with similar species composition, age, and condition considered to be a homogeneous unit). *Hesperocyparis abramsiana* var. *butanoensis* is distinguished from *H. a.* var. *abramsiana* by its longer seed cones (Bartel 2012, p. 138). Both varieties are collectively referred to as Santa Cruz cypress for the remainder of this document unless otherwise noted.

At the time of listing, population estimates for Santa Cruz cypress were based on field reconnaissance rather than systematic observations of stand area and density. These estimates did not differ greatly from the estimates used in the 1998 Recovery Plan (Service 1998), which used numbers from a demographic report (Lyons 1988) of the species from 1988. In 2007, we funded a directed study of three populations (Butano Ridge, Majors Creek, and Eagle Rock) to obtain more accurate estimates on population numbers and area (McGraw 2007, entire), and we derived updated estimates for the remaining two populations from McGraw (2007) and Taylor (*in litt.* 2005).

McGraw (2007) and Taylor (*in litt.* 2005) represent the best currently available scientific and commercial information regarding number of individual trees, coverage area (acreage) for all populations, reproduction, and recruitment. Survey data indicate the estimated number of individual trees for all 5 populations ranges from approximately 2,786 individuals in the Butano Ridge population to approximately 10,000 to 20,000 individuals in the Bracken Brae population (Table 2 in Service 2013, p. 13). The five populations range in size from approximately 8 to 128 acres (ac) (3 to 52 hectares (ha)) (Table 2 in Service 2013, p. 13). McGraw's (2007, p. 20) study at the Butano Ridge, Eagle Rock, and Majors Creek populations showed high levels of new cone formation (also expected to be similar at the Bonny Doon and Bracken Brae populations), which is an indicator of

reproductive vigor. Santa Cruz cypress, like most cypress species, are obligate seeders; the trees do not resprout after a disturbance event such as a fire, and are thus totally dependent on seed establishment for post-disturbance regeneration (Bartel and Knudsen 1983, p. 3). While seed production appears to be strong, recruitment—which depends more on the availability of habitat—is more variable between stands (Service 2013, p. 45).

For a detailed discussion of Santa Cruz cypress's description, taxonomy, life history, habitat, soils, distribution, abundance, age and size distribution, and role of fire in regeneration, please see the Species Report available for review at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0092.

Recovery and Recovery Plan Implementation

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include: "Objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of [section 4 of the Act], that the species be removed from the list." However, revisions to the list (adding, removing, or reclassifying a species) must reflect determinations made in accordance with sections 4(a)(1) and 4(b) of the Act. Section 4(a)(1) requires that the Secretary determine whether a species is endangered or threatened (or not) because of one or more of five threat factors. Section 4(b) of the Act requires that the determination be made "solely on the basis of the best scientific and commercial data available." Therefore, recovery criteria should indicate when a species is no longer an endangered species or threatened species because of any of the five statutory factors.

Thus, while recovery plans provide important guidance to the Service, States, and other partners on methods of minimizing threats to listed species and measurable objectives against which to measure progress towards recovery, they are not regulatory documents and cannot substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of or remove a species from the Federal List of Endangered and Threatened Plants (50 CFR 17.12) is ultimately based on an analysis of the best scientific and commercial data then available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

In 1998, we finalized a recovery plan for Santa Cruz cypress (Recovery Plan; Service 1998). The Recovery Plan states that Santa Cruz cypress can be reclassified to threatened status when protection is secured for all five populations and their habitat from the primary threats of logging, agricultural conversion, and development (Service 1998, p. 30). This criterion was intended to address the point at which imminent threats to the species had been ameliorated so that the populations were no longer in immediate risk of extirpation. Because of its limited range and distribution, we determined that essentially all of the known habitat is necessary to conserve the species. At the time the Recovery Plan was prepared, we estimated that areal extent totaled 356 ac (144 ha). After more accurate mapping (McGraw 2007, entire), we now estimate that areal extent totals approximately 188 ac (76 ha) (Service 2013, p. 43). Additionally, estimated abundance of individuals in all populations has changed over time, from approximately 2,300 individuals at the time of listing in 1987, to a current range of 33,000 to 44,000 individuals (although the latter estimate is variable due to mortality and regeneration following the 2008 Martin Fire that burned 520 ac (210 ha) of land and a portion of the Bonny Doon population) (see Table 1 and the Bonny Doon population discussion under the "Population Descriptions" section of the Species Report (Service 2013, pp. 6, 15–17)). It is important to note that the updated estimates for species abundance and areal extent do not illustrate trends but rather improved information about the species over time.

As explained in more detail in the Species Report (Service 2013, p. 43), three of five populations occur primarily or entirely on lands that are being managed for conservation purposes, including the Butano Ridge population at Pescadero Creek County Park, the Bonny Doon population at Bonny Doon Ecological Reserve managed by the California Department of Fish and Wildlife (CDFW), and the Eagle Rock population at Big Basin State Park managed the California Department of Parks and Recreation (CDPR). A fourth population (Majors Creek) is primarily on lands at Gray Whale Ranch State Park, with a small portion on privately owned land. The fifth population (Bracken Brae) is entirely on private lands owned by a conservation-oriented landowner. This land is also designated by the County of Santa Cruz as environmentally sensitive habitat, which places restrictions on most development. Because four of the five populations, either wholly or primarily, occur on park or reserve lands, most of the individuals in the Bonny Doon, Butano Ridge, Majors Creek, and Eagle Rock populations are protected against the threats identified as imminent (logging, agricultural conversion, and development) at the time of listing and in the Recovery Plan. Because the Bracken Brae population is being managed by a conservation-oriented landowner and county restrictions are in place that would restrict most development, development-related threats to this population appear negligible compared to other active threats. Therefore, we conclude that the downlisting criterion has been substantially met.

The Recovery Plan also states that Santa Cruz cypress can be delisted when all five populations are assured of long-term reproductive success, with insurance against failure provided by the availability of banked seed (Service 1998, p. 45). This criterion was intended to address the point at which long-term threats to the species' persistence had been addressed and its persistence ensured. As explained in more detail in the Species Report (Service 2013, pp. 18–20), Santa Cruz cypress requires fire or other disturbance for germination of seeds and recruitment of new individuals into the populations. As detailed below in the Summary of Factors Affecting the Species section and in the Species Report (Service 2013, pp. 23–25), alteration of fire regime and lack of management are likely to significantly impact the long-term persistence of the species. Additionally, only seed for the Bonny Doon, Majors Creek, and Bracken Brae populations is stored in a conservation bank; no seed has been banked for the Eagle Rock or Butano Ridge populations. Therefore, based on our analysis of the best available information, we conclude that the delisting criterion for the species has not been met.

In addition to the significant protections now afforded to Santa Cruz cypress as outlined above, various studies have occurred since development of the Recovery Plan that aid in our understanding of the status of Santa Cruz cypress. For example:

- Recent surveys indicate that four of the five stands of Santa Cruz cypress contain a larger number of individuals than was estimated at the time of listing

and in the Recovery Plan (Service 2013, p. 43).

• Although data indicate the majority of trees are reproductive, many trees (as indicated by surveys conducted specifically at Butano Ridge and Majors Creek populations) are even-aged (occur in stands or populations with individuals all of approximately the same age). Even-aged stands indicate that vigorous recruitment (survival of seedlings to reproductive age and into the adult population) is not evident (McGraw 2011, p. 26). In contrast, vigorous recruitment would be indicated by stands or populations including individuals of multiple sizes or age classes representing various life stages of the species.

• While seed production appears to be strong at each of the sampled populations, recruitment, which depends more on extrinsic factors such as the availability of appropriate habitat for seedling survival, is more variable among stands even within a population.

These and other data that we have analyzed indicate that most threats identified at listing and during the development of the Recovery Plan are reduced in areas occupied by Santa Cruz cypress and that the status of Santa Cruz cypress has improved, primarily due to the habitat protection provided by CDFW, CDPR, the County of San Mateo, and the County of Santa Cruz. However, threats associated with alteration of fire regime and lack of habitat management continue to impede the species' ability to recover.

Additional information on recovery and recovery plan implementation are described in the "Progress Toward Recovery" section of the Species Report (Service 2013, pp. 39–43).

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. "Species" is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). A species may be determined to be an endangered or threatened species because of any one or a combination of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or human made factors affecting its continued existence. A species may be reclassified on the same basis.

Determining whether the status of a species has improved to the point that it can be downlisted requires consideration of whether the species is endangered or threatened because of the same five categories of threats specified in section 4(a)(1) of the Act. For species that are already listed as endangered or threatened, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections.

A species is an "endangered species" for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a "threatened species" if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The word "range" in the significant portion of its range phrase refers to the range in which the species currently exists. For the purposes of this analysis, we first evaluate the status of the species throughout all its range, then consider whether the species is in danger of extinction or likely to become so in any significant portion of its range.

At the time of listing, the primary threats to Santa Cruz cypress were residential development, agricultural conversion, logging, oil and gas drilling, genetic introgression, and alteration of the natural frequency of fires that threatened to destroy portions of each population (52 FR 675; January 8, 1987). Other (secondary) threats in 1987 included vandalism, disease, and inadequate regulatory mechanisms (52 FR 675). Of the primary threats in 1987, residential development, agricultural conversion, and logging threatened individual Santa Cruz cypress trees and stands with imminent destruction.

By the time the Recovery Plan was developed in 1998 (Service 1998, p.1), threats to Santa Cruz cypress from residential development, agricultural conversion, oil and gas drilling, and logging were still a concern but had already substantially decreased. The other (secondary) threats identified at the time of listing had not been ameliorated by the time the Recovery Plan was developed, particularly alteration of the natural fire frequency because fire exclusion activities still occurred on nearby properties (Service 1998, pp. 20–25). Additionally, the Recovery Plan included a discussion of threats to Santa Cruz cypress posed by nonnative species, reproductive isolation, and predation (Service 1998, pp. 22, 23). Subsequently, we conducted a 5-year status review (which included an analysis of threats that affect the species) in 2009 (Service 2009, pp. 7–11). By this point in time, much of the existing habitat for Santa Cruz cypress had been acquired by the State of California; thus, many impacts previously considered significant to the species were of a lesser concern, with the exception of residential development and agricultural conversion at portions of populations that were not yet conserved. Our review concluded that the impacts from alteration of the fire regime, disease or predation, reproductive isolation, genetic introgression, and competition with nonnative species remained at the same level as identified in the Recovery Plan.

A thorough analysis and discussion of the current status review initiated with our 2012 90-day finding (77 FR 32922) is detailed in the Species Report (Service 2013, entire). In the Species Report, we identified levels of threats using a scale of low, moderate, or high (see Service 2013, Appendix 1, for a description of the methodology). As used in this Species Report, a low-level threat has the potential to occur at any time, but is unlikely to affect the species across its entire range or preclude its persistence into the future; a moderate-level threat is currently affecting the long-term persistence of a particular population or across the species' range, but does not pose an imminent threat to the persistence of the species; and a high-level threat is a well-documented imminent threat to a large number of individuals that has the potential to disrupt the long-term persistence of the species in a particular population or across its entire range. Current or potential future threats to Santa Cruz cypress include alteration of the fire regime (Factors A and E; high-level threat), competition with nonnative species (Factors A and E; moderate-level threat), climate change (Factor A; moderate-level threat), genetic introgression (Factor E; low-level threat), and vandalism and unauthorized recreational activities (Factors A and E; low-level threat). The existing regulatory mechanisms are inadequate to protect the species from these threats (Factor D; low-level threat). Other potential impacts evaluated and found to either be of no concern, insignificant concern, or negligible at

this time include residential development, agricultural conversion, logging, and oil and gas drilling (Factor A); overutilization (Factor B); disease or predation (Factor C); and reproductive isolation (Factor E). Please see Table 1, Table 4, and the "Discussion of Threats to the Species" section of the Species Report for a thorough discussion of all potential and current threats (Service 2013, pp. 3, 22–40).

We note, however, that, although the threats of residential development and agricultural conversion to Santa Cruz cypress have been ameliorated considerably compared to the time of listing (to the point that we consider them insignificant at this time), they remain a concern at two of the populations (i.e., the Bracken Brae and Bonny Doon populations) to a lesser degree than previously identified in the Recovery Plan. Specifically, while the land is not in permanent conservation ownership, the likelihood of potential residential development is reduced at the Bracken Brae population because the land is owned by a conservation-oriented landowner (Service 2013, p. 45) and county designation of these lands as a sensitive area places a restriction on certain kinds of development. We do not expect this county designation as a sensitive area to change in the future, even if the species is reclassified to threatened or eventually delisted. Additionally, agricultural conversion is currently reduced (to an insignificant level) at the Bonny Doon population as a result of a large proportion of the population (i.e., approximately 70 percent) now occurring on lands designated as a reserve (Service 2013, pp. 15, 16, 45). The portion that is not part of the reserve (i.e., approximately 30 percent) is still subject to potential agricultural conversion, although potential loss of even this area outside the reserve is relatively unlikely due to the county's designation of these lands as a sensitive area (thus a low magnitude threat overall for the population and the species as a whole). The increased level of conservation afforded to these two populations as compared to the time of listing has been achieved primarily through the acquisition of lands for conservation by CDPR and CDFW.

The following sections provide a summary of the current threats impacting the Santa Cruz cypress. As identified above, these threats include alteration of the fire regime (Factors A and E), competition with nonnative species (Factors A and E), climate change (Factor A), genetic introgression (Factor E), vandalism and unauthorized recreational activities (Factors A and E), and the inadequacy of existing regulatory mechanisms (Factor D).

Alteration of Fire Regime

The long-term persistence of Santa Cruz cypress populations can be affected by the disruption of the natural fire frequency because Santa Cruz cypress requires fire (or potentially mechanical disturbance in lieu of, or in combination with, fire) to reproduce. Most Santa Cruz cypress populations are located close to residential areas, where natural fires are excluded from surrounding wildland areas by the creation of fire breaks and fuels reduction projects. Both fire exclusion and fire suppression lengthen the interval between fires, thus altering the natural fire regime and increasing the risk of extirpation from senescence (growth phase from full maturity to death). Conversely, human ignitions contribute to fire intervals that are too short, which in turn can inhibit Santa Cruz cypress from reaching its reproductive potential if stands burn prior to trees reaching reproductive age.

The altered fire regime presents a high-level threat to the long-term persistence of all of the Santa Cruz cypress populations and their habitat. Santa Cruz cypress depends on fire to maintain appropriate habitat conditions and to release many of the seeds stored in cones in the canopy. As adult trees senesce and die, seed production decreases, such that there is insufficient seed available to regenerate the stand (McGraw 2007, p. 24). In the absence of fire, recruitment still occurs, but at a low level that is likely not sufficient for stand replacement (McGraw 2011, p. 2). To germinate in large numbers, the species requires open soil and canopy conditions created by fires intense enough to kill the parent tree; in the absence of fire the species is only able to germinate opportunistically in rock outcroppings or small disturbance areas. Without appropriate disturbance from fire, the stands could eventually senesce, resulting in minimal reproduction in small rock outcrops that may be inadequate to maintain population viability.

Within the range of the Santa Cruz cypress, fire has been documented at the Bonny Doon and Eagle Rock populations, although even-aged stands at the Butano Ridge, Bracken Brae, and Majors Creek populations suggest that past fires have occurred. However, McGraw (2011, p. 2) states that the current demographics and natural recruitment rates observed in the Majors Creek, Eagle Rock, and Butano Ridge populations appear to be insufficient to maintain the populations in the absence of fire. Additionally, active management to address this concern is not occurring at this time. See additional discussion in the "Alteration of Fire Regime" section of the Species Report (Service 2013, pp. 23–25).

Competition With Nonnative Species

The presence of nonnative, invasive species impacts the long-term persistence of Santa Cruz cypress and its habitat both currently and in the future through competition and habitat modification. Many nonnative species have been introduced into Santa Cruz cypress habitat through a variety of past impacts (e.g., development, infrastructure). Significant impacts result from *Acacia dealbata* (silver wattle) and *Genista monspessulana* (French broom). Silver wattle is significantly impacting the Majors Creek population and its habitat by creating dense canopies, which can inhibit seedlings by blocking sunlight needed for cypress growth (McGraw 2007, p. 23). French broom is one of the most prevalent invasive species in Santa Cruz County, located at elevations where all but a portion of one Santa Cruz cypress population occurs (Moore 2002, p. 6). French broom is significantly impacting the Bonny Doon population and its habitat by inhibiting Santa Cruz cypress seedling establishment through competition for open, recently disturbed soils that have access to abundant sunlight. Additionally, European annual grasses (present at all populations) are known to impact Santa Cruz cypress by precluding the establishment of seedlings, but these grasses do not impact Santa Cruz cypress as significantly as silver wattle or French broom, which are currently impacting two populations (i.e., Majors Creek and Bonny Doon) and likely to impact, at minimum, two additional populations (i.e., Eagle Rock and Bracken Brae) due to the cypress's proximity to residential areas where ground disturbance activities promote nonnative plant invasions. We consider competition with nonnative species to be a moderate-level threat to the Santa Cruz cypress. See additional discussion in the "Competition With Nonnative Plant Species" section of the Species Report (Service 2013, pp. 31–33).

Climate Change

The term "climate change" refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, usually decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007, p. 78).

Various types of changes in climate can have direct or indirect effects on species, including Santa Cruz cypress. Scientific measurements spanning several decades demonstrate that changes in climate are occurring, and the rate of change has increased since the 1950s (e.g., IPCC 2007, p. 30; Solomon *et al.* 2007, pp. 35–54, 82–85). Within central-western California (i.e., California coastal counties from San Francisco south to Santa Barbara, including the range of the Santa Cruz cypress), predictions indicate warmer winter temperatures, earlier warming in the spring, and increased summer temperatures (PRBO Conservation Science 2011, p. 35), all of which will likely result in shifts in vegetation types. This can, for example, result in increased competition between species like Santa Cruz cypress and other native and nonnative species (Loarie *et al.* 2008), or result in habitat changes resulting from altered fire frequency and water availability (Service 2013, p. 28–29). We consider climate change to be a moderate-level threat to the Santa Cruz cypress. See additional discussion in the "Climate Change" section of the Species Report (Service 2013, pp. 26–29).

Genetic Introgression

If individuals of different cypress species are planted in close proximity, they can exchange pollen and may produce fertile hybrid offspring, as has been documented in a number of plant species (Rhymer and Simberloff 1996, pp. 98–99). By this means, genes from one species can infiltrate into another, which is a process called genetic introgression. Santa Cruz cypress may be affected by introgression from residential plantings of *Hesperocyparis macrocarpa* (Monterey cypress) near the Bonny Doon population (Haley 1993, pers. obs.), plantings of *Cupressus glabra* (Arizona cypress) near the Eagle Rock population, and potentially plantings near other populations due to their close proximity to residential areas where plantings of other cypress species could occur. Because considerable genetic variation exists among Santa Cruz cypress populations (Miller and Westfall 1992, p. 350), it is probable that, in the absence of geographical barriers, hybridization may occur among the different populations of Santa Cruz cypress as well as between Santa Cruz cypress and the neighboring species. We consider genetic introgression to be a low-level threat to the Santa Cruz cypress. See additional discussion in the "Genetic Introgression" section of the Species Report (Service 2013, pp. 30–31).

Vandalism and Unauthorized Recreational Activities

Vandalism and unauthorized recreational activities have been documented to impact multiple Santa Cruz cypress populations and their habitat. These activities result in construction of unauthorized trails (such as those within the Majors Creek population at Wilder Creek State Park) (CDPR 2000; Barry 2012, pers. obs.), which in turn result in erosion (McGraw 2007, p. 22) and potentially prevention of seedling establishment. Additionally, trails wear away substrate from the base of mature cypress trees. Although vandalism and unauthorized recreational activities are not considered to significantly impact the populations at this time (considered a low-level threat), they remain a concern due to the likelihood of increased inhabitants in the urban-wildland interface where Santa Cruz cypress occurs. See additional discussion in the "Vandalism and Unauthorized Recreational Activities" section of the Species Report (Service 2013, p. 33).

Existing Regulatory Mechanisms

Reclassifying Santa Cruz cypress from endangered to threatened would not significantly change the protections afforded to this species under the Act. Santa Cruz cypress conservation has been addressed in some local, State, and Federal plans, laws, regulations, and policies. Now that most of the trees reside in fully protected areas on State or County park lands, the inadequacy of existing regulatory mechanisms is considered a low-level threat to Santa Cruz cypress. However, the main concern currently and into the future is the lack of ongoing management to prevent senescence and ensure population persistence. While we recognize the benefits of management flexibility, we also recognize that such flexibility with regard to implementation of land use plans can result in land use decisions that negatively affect Santa Cruz cypress or its habitat. See additional discussion in the "Legal Protection" section of the Species Report (Service 2013, pp. 34–37).

Combination of Threats

The threat to the long-term persistence of Santa Cruz cypress is compounded by multiple interacting factors, specifically: (1) The alteration of fire regimes and lack of species management; and (2) human activities, nonnative species, and fire. With the prevalence of fire exclusion and suppression near residential communities within the range of the species, the opportunity for Santa Cruz cypress to regenerate in large pulses following fire is reduced. This fire suppression coupled with the lack of species-specific management is resulting in minimal regeneration for the species as a whole, which could be exacerbated if this continues into the future. The ability of land managers to adequately maintain cypress populations on public lands is subject to constraints and physical barriers. Additionally, human intrusion into previously undisturbed areas contributes to colonization of nonnative plant species in the remote areas of Santa Cruz cypress forests (see the "Competition with Nonnative Plant Species" section of the Species Report (Service 2013, pp. 31–33)). This activity exacerbates the likelihood for the creation of open conditions (e.g., bike trails, road cuts, firebreaks), allowing nonnative plants to proliferate and compete with the cypress for soil, nutrients, and light. If a wildfire is then introduced into these new (open) conditions, nonnative species that compete with Santa Cruz cypress could then easily spread. The presence or increase in nonnative species can inhibit cypress seedlings by blocking the sunlight they need to grow (McGraw 2007, p. 23). See "Compounding Threats" section of the Species Report (Service 2013, pp. 37–38).

Overall Summary of Factors Affecting Santa Cruz Cypress

Impacts to the long-term persistence of Santa Cruz cypress populations from alteration of the fire regime (Factors A and E) remains a significant concern currently and in the future (i.e., at least approximately 100 years, based on the potential lifespan of individual Santa Cruz cypress trees per Lyons (1988) estimate). Because the germination and establishment of new seedlings depends on either fire or a managed substitute (e.g., controlled burns or mechanical disturbance), appropriate fire or disturbance regimes are needed to manage the demographic profile of the five populations. Lack of fire or other disturbance to promote germination and seedling establishment poses a senescence risk to the stands and populations of Santa Cruz cypress (Service 2013, p. 30). Without recruitment of new individuals, trees in the current even-aged stands may become senescent (or no longer reproductive) and no longer produce cones and seeds necessary for long-term reproductive success and persistence of the populations (which has been observed in Santa Cruz cypress

populations by McGraw (2007, pp. 20–21)). While most of the populations have been protected through acquisition of lands for conservation, no active management is currently occurring to manage the demographic profile of the populations. Research on suitable management methods has only begun recently at Bonny Doon Ecological Reserve (McGraw 2011); future management of this population is expected to provide additional understanding of conditions that would promote regeneration, thus providing beneficial management recommendations that could be applied to all populations.

Although the fire regime is identified as a significant impact to Santa Cruz cypress at this time, the level of impact does not currently place the species in danger of extinction because of the expected continued presence of the populations into the future, the recruitment (albeit minimal overall) that has been observed to date, and probable additional recruitment that can be expected once effective management (potentially canopy thinning combined with vegetation clearance) is implemented (see "Research Needs" section of the Species Report (Service 2013, p. 46)).

In addition to altered fire regime, other impacts to Santa Cruz cypress and its habitat are currently occurring or potentially occurring in the future, but to a lesser degree than the overall impact from an altered fire regime. These include competition with nonnative, invasive species (Factors A and E); climate change (Factor A); genetic introgression (Factor E); and vandalism or unauthorized recreational activities (Factors A and E). Nonnative plants are competing with Santa Cruz cypress by invading open areas where cypress seedlings could become established, thus competing for soil, nutrients, and light (Service 2013, pp. 31–33). Climate change may cause vegetation shifts and promote more and larger wildfires (Service 2013, pp. 26–29). Genetic introgression of Santa Cruz cypress with at least two different cypress species could result in hybridization and result in the loss of Santa Cruz cypress's competitive advantage in its preferred habitat (Service 2013, pp. 31–31). Vandalism and unauthorized recreational activities may inhibit seedling establishment and increase erosion (Service 2013 p. 33). Additionally, although substantial mechanisms are currently in place to protect Santa Cruz cypress and its habitat, the existing regulatory mechanisms are inadequate to fully protect the species from these threats (Factor D). Based on our current analysis and the current level of management being implemented, the remaining impacts are expected to influence Santa Cruz cypress's habitat suitability and its ability to reproduce and survive in the future.

In summary, impacts from development, agricultural conversion, logging, and oil and gas development, which were considered imminent at the time of listing, have been substantially reduced or ameliorated. Other impacts identified at or since listing (i.e., alteration of fire regime; competition with nonnative, invasive species; climate change; genetic introgression; and vandalism (including unauthorized recreational activities)) continue to impact Santa Cruz cypress or are expected to impact the species in the future. Although individually these impacts (with the exception of altered fire regime) are of low or moderate concern to the species, their cumulative impact can promote and accelerate unnatural conditions (Service 2013, pp. 37–38). For example, human intrusion into previously undisturbed areas contributes to colonization of nonnative plant species in the remote areas of Santa Cruz cypress forests, which in turn may result in increased wildfires and potentially increased community concern for wildfire suppression activities. These types of interactions could become a greater concern to Santa Cruz cypress in the future if restricted management leads to increased human activity in cypress forests.

The high-level impact to Santa Cruz cypress and its habitat that is of greatest concern at this time is an altered fire regime. The long-term persistence of Santa Cruz cypress posed by this high-level impact is exacerbated by the lack of species management, resulting in continued affects to the age structure and demographic profile of the species. Although operating on the species currently, the impacts from an altered fire regime, either alone or in combination with the other impacts identified above, do not place the species at immediate risk of extinction. Reproduction and recruitment is evident (although not at a level sufficient for long-term persistence) based on recent data in at least four populations (i.e., the portion of the Bonny Doon population that burned in the 2008 Martin Fire, and at the Eagle Rock, Butano Ridge, and Majors Creek populations) (Service 2013, p. 46); insufficient recruitment is also likely the case at the Bracken Brae population and the portion of the Bonny Doon population that did not burn in the 2008 Martin fire, although these data are unavailable. However, if fire or other disturbance in the future does not occur to promote germination and seedling establishment (whether through a natural fire event or active management), population effects that may result from senescence are likely to place the species in danger of extinction.

Distinguishing Threats for Both Cypress Varieties

As described above in the Background section, recent taxonomic evaluations of *Hesperocyparis abramsiana* identified two varieties: *H. a.* var. *butanoensis* (Butano Ridge population) and *H. a.* var. *abramsiana* (Eagle Rock, Bracken Brae, Bonny Doon, and Majors Creek populations) (Adams and Bartel 2009). Therefore, the threats analysis provided in the Species Report (Service 2013, entire) and summarized in this document includes a separate evaluation for each of the five populations, in part to distinguish the level of impact the current threats have on the two separate varieties. The information summarized below is evaluated and described in detail in the "Discussion of Threats to the Two Separate Varieties" section of the Species Report (Service 2013, pp. 38–40).

The Butano Ridge population (*Hesperocyparis abramsiana* var. *butanoensis*) is primarily threatened by changes in the historical fire regime (Factors A and E). The population is located away from developed areas, but because it is near a lumber operation, there likely are fire exclusion and suppression activities in the vicinity that alter the fire regime. Other impacts identified at the time of listing are no longer impacting this population or are no longer considered significant (e.g., logging, oil and gas drilling), in large part due to this population now being fully protected and managed within the boundaries of Pescadero Creek County Park. Although this variety is not considered a separate species, its status as a separate variety indicates its divergence from other populations of the species. Further divergence, and potentially the process of speciation, may continue through sustained reproductive isolation from other Santa Cruz cypress populations. Additionally, this is the only location for this variety, and it is composed of a single stand, thus making it vulnerable to an impact such as disease if exposed. However, at this time it is highly unlikely that potential impacts such as development, disease, predation, and others (as described in the Species Report (Service 2013, pp. 23–40)) would occur at the

Butano Ridge population. An altered fire regime is the main concern present at this population, with potential concerns currently or in the future related to competition with nonnative species (Factors A and E) and climate change (Factor A).

Similar to the Butano Ridge population described above, the primary impact to the Eagle Rock, Bracken Brae, Bonny Doon, and Majors Creek populations (*Hesperocyparis abramsiana* var. *abramsiana*) is the alteration of the fire regime (Factors A and E), which was identified at the time of listing. This impact remains present at all populations of the Santa Cruz cypress, although management actions at the Bonny Doon Ecological Reserve have included some mechanical vegetation removal in an attempt to reduce this impact (Service 2013, pp. 39–40). Impacts from competition with nonnative species (Factors A and E) and climate change (Factor A) also threaten the long-term persistence of both varieties of Santa Cruz cypress (in addition to vandalism and unauthorized recreational activities (Factors A and E), and genetic introgression (Factor E) potentially impacting the *H. a.* var. *abramsiana* populations), and there are no management actions proposed to address these concerns. The existing regulatory mechanisms are inadequate to fully protect the species from these impacts (Factor D). Please see the "Current Threats" and "Discussion of Threats to the Two Separate Varieties" sections of the Species Report for additional discussion related to current or potential threats to these Santa Cruz cypress populations (Service 2013, pp. 23–40).

Finding

An assessment of the need for a species' protection under the Act is based on whether a species is in danger of extinction or likely to become so because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. As required by section 4(a)(1) of the Act, we conducted a review of the status of this plant and assessed the five factors to evaluate whether Santa Cruz cypress is endangered or threatened throughout all of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats faced by the species. We reviewed information presented in the 2011 petition, information available in our files and gathered through our 90-day finding in response to this petition, and other available published and unpublished information. We also consulted with species experts and land management staff with CDFW, CDPR, the County of San Mateo, and the County of Santa Cruz, who are actively managing for the conservation of Santa Cruz cypress. For the purposes of this discussion, we define foreseeable future as at least approximately 100 years based on the potential lifespan of individual Santa Cruz cypress trees per Lyons' (1988) estimate (see the "Life History" discussion in the Species Report (Service 2013, pp. 8–9) for additional discussion).

In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the exposure causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant the threat is. If the threat is significant, it may drive, or contribute to, the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of endangered or threatened under the Act.

As a result of recent information, we know that there are a significantly larger number of Santa Cruz cypress individuals than were known at the time of listing (Service 2013, p. 45) and that there is significant conservation of lands that support the populations. Significant impacts at the time of listing that could have resulted in the extirpation of all or parts of populations have been eliminated or reduced since listing. We conclude that the previously recognized impacts to Santa Cruz cypress from present or threatened destruction, modification, or curtailment of its habitat or range (specifically, residential development, agricultural conversion, logging, and oil and gas drilling) (Factor A); overutilization for commercial, recreational, scientific, or educations purposes (Factor B); disease or predation (Factor C); and other natural or human made factors affecting its continued existence (specifically, reproductive isolation) (Factor E) do not rise to a level of significance, either individually or in combination, such that the species is in danger of extinction now or in the foreseeable future.

However, alteration of the fire regime (Factors A and E) has the potential to disrupt the long-term persistence of the species across its entire range (resulting in the species potentially facing a senescence risk in the future) if fire continues to be excluded or suppressed near these populations. Current recruitment in at least four populations (the portion of Bonny Doon population that burned in the 2008 Martin Fire, and the Eagle Rock, Butano Ridge, and Majors Creek populations) is evident; however, the current level of recruitment is not sufficient to maintain the populations in the absence of fire (Service 2013, p. 26). This is likely also the case with the Bracken Brae population and the portion of the Bonny Doon population that did not burn.

Santa Cruz cypress will continue to be impacted by competition with nonnative, invasive species (Factors A and E); genetic introgression (Factor E); vandalism and unauthorized recreational activities (Factors A and E); and potentially climate change (Factor A). Additionally, the existing regulatory mechanisms are inadequate to fully protect the species from these threats (Factor D). However, the severity and magnitude of threats, both individually and in combination, and the likelihood that any one event would affect all populations is significantly reduced as a result of the removal of multiple threats, the reduced impact of most remaining threats, and the extensive amount of conservation occurring throughout the range of the species (including, but not limited to, extensive preservation of occupied lands in perpetuity and development of management plans to enhance habitat).

In conclusion, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. After review of the information pertaining to the five statutory factors, we find that the ongoing threats are not of sufficient imminence, intensity, or magnitude to indicate that Santa Cruz cypress is presently in danger of extinction throughout all its range. Although

threats to Santa Cruz cypress still exist and will continue into the foreseeable future, CDFW, CDPR, the County of San Mateo, and the County of Santa Cruz are implementing conservation measures or regulatory actions to reduce the level of impact on Santa Cruz cypress. We therefore find that Santa Cruz cypress now meets the definition of a threatened species (i.e., is likely to become in danger of extinction in the foreseeable future throughout all of its range).

Significant Portion of the Range

Having examined the status of Santa Cruz cypress throughout all its range, we next examine whether the species is in danger of extinction in a significant portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose in analyzing portions of the range that have no reasonable potential to be significant or in analyzing portions of the range in which there is no reasonable potential for the species to be endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that: (1) The portions may be "significant" *and* (2) the species may be in danger of extinction there or likely to become so within the foreseeable future. Depending on the biology of the species, its range, and the threats it faces, it might be more efficient for us to address the significance question first or the status question first. Thus, if we determine that a portion of the range is not "significant," we do not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we do not need to determine if that portion is "significant." In practice, a key part of the determination that a species is in danger of extinction in a significant portion of its range is whether the threats are geographically concentrated in some way. If the threats to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats to the species occurs only in portions of the species' range that clearly would not meet the biologically based definition of "significant," such portions will not warrant further consideration.

We consider the "range" of Santa Cruz cypress to include five populations (Butano Ridge, Bracken Brae, Eagle Rock, Bonny Doon, and Majors Creek) that span a distance of 15 miles (24 . . kilometers) from north to south within the Santa Cruz Mountains in San Mateo and Santa Cruz Counties, California. These five populations are all believed to be relictual islands containing representatives of what was once a widespread flora during glacial periods (Libby 1979, p. 15); historical distribution of Santa Cruz cypress beyond the five currently recognized populations is unknown. In other words, the current distribution is the only known distribution, which has remained the same throughout recorded history.

We considered whether the threats facing Santa Cruz cypress might be different at any of the populations and specifically between the Butano Ridge population (*Hesperocyparis abramsiana* var. *butanoensis*) and the other four populations (*H. a.* var. *abramsiana*). The Butano Ridge population is similar to the other four populations in that it is primarily threatened by changes in the historical fire regime, as was identified as a concern for all five populations at the time of listing. Additionally, threats from competition with nonnative species and climate change exist for all populations. Current threats known only to impact the populations comprised of *H. a.* var. *abramsiana* include genetic introgression, vandalism, and unauthorized recreational use. Our evaluation of the best available information indicates that the overall level of threats is not significantly different at any of these populations (Service 2013, pp. 24–41), with the primary current threat to all populations being alteration of fire regime. Additionally, there are no threats specific to the Butano Ridge population; the threats that are impacting or have the potential to impact the Butano Ridge population are widespread across the species' range (Service 2013, pp. 39–40). It is our conclusion, based on our evaluation of the current potential threats to Santa Cruz cypress at each of the populations in San Mateo and Santa Cruz Counties (see Summary of Factors Affecting the Species section of this proposed rule and the "Discussion of Threats to the Species" section of the Species Report (Service 2013, pp. 22–40)), that threats are neither sufficiently concentrated nor of sufficient magnitude to indicate that the species is in danger of extinction at any of the areas that support populations.

Therefore, while no populations of Santa Cruz cypress are at imminent risk of extirpation, ongoing threats continue to affect the likelihood of long-term persistence of the populations and the species such that the Santa Cruz cypress meets the definition of a threatened species under the Act. Therefore, we find that the petitioned action is warranted, and we propose to reclassify Santa Cruz cypress from endangered to threatened status.

Effects of This Rule

If this proposed rule is made final, it would revise 50 CFR 17.12(h) to reclassify Santa Cruz cypress from endangered to threatened on the List of Endangered and Threatened Plants. However, this reclassification does not significantly change the protections afforded this species under the Act. Pursuant to section 7 of the Act, all Federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of Santa Cruz cypress. Whenever a species is listed as threatened, the Act allows promulgation of special rules under section 4(d) that modify the standard protections for threatened species found under section 9 of the Act and Service regulations at 50 CFR 17.31 (for wildlife) and 17.71 (for plants), when it is deemed necessary and advisable to provide for the conservation of the species. There are no 4(d) rules in place or proposed for Santa Cruz cypress, because there is currently no conservation need to do so for this species.

Recovery actions directed at Santa Cruz cypress will continue to be implemented as outlined in the Recovery Plan for this species (Service 1998, entire).

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the names of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act

We determined we do not need to prepare an Environmental Assessment or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this proposed rule is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0092 or upon request from the Field Supervisor, Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author

The primary author of this proposed rule is the Pacific Southwest Regional Office in Sacramento, California, in coordination with the Ventura Fish and Wildlife Office in Ventura, California (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) as follows:

■ a. By removing the entry for *"Cupressus abramsiana"* under CONIFERS, and

■ b. By adding an entry for *"Hesperocyparis abramsiana"* under CONIFERS to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	
CONIFERS	.....	.....	.....		.....	.....	.....
*	*	*	*	*	*	*	
Hesperocyparis abramsiana.	Santa Cruz cypress	U.S.A. (CA)	Cupressaceae	T	252	NA	NA
*	*	*	*	*	*	*	

Dated: August 13, 2013.

Stephen Guertin,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2013–21313 Filed 8–30–13; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 78, No. 170
Tuesday, September 3, 2013

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–13–0060]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Agricultural Marketing Service (AMS) is requesting approval from the Office of Management and Budget for revision to and extension of the information collection titled USDA Food Connect Web site.

DATES: Comments received by November 4, 2013 will be considered.

Additional Information or Comments: Contact Debra Eisenbarth, Standardization Branch, Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0247, 1400 Independence Avenue SW., Washington, DC 20250–0247, telephone: (202) 720–1941 and fax: (202) 690–1527; or Internet via *http://www.regulations.gov.* All comments should reference the document number, date, and page number of this issue of the **Federal Register**. All comments will be posted without change, including any personal information provided. All comments submitted in response to this notice will be included in the record and will be made available to the public on the Internet via *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Title: USDA Food Connect Web site.

OMB Number: 0581–0224.

Expiration Date of Approval: January 10, 2014.

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

Abstract: The information collection requirements in this request are necessary for the operation of the U.S. Department of Agriculture (USDA) Food Connect Web site, which operates pursuant to the authority of Section 32 of Public Law 74–320, 7 U.S.C. 612c, AMS administers the USDA Food Connect Web site, which supports our mission of facilitating the efficient and fair marketing of U.S. agricultural products. Registering to participate on, or use, the USDA Food Connect Web site is voluntary.

The USDA Food Connect Web site provides a neutral, web-based resource where food processors and distributors can register their nutritious, value-added foods for institutional food service professionals to choose the products they require. Brokers can also list food processors and regions they represent on the Web site along with information about food associations.

The National School Lunch Program is a federally assisted meal program operating in more than 100,000 public and non-profit private schools and residential childcare institutions. The program provides nutritionally balanced, low-cost or free lunches to more than 30.5 million children each school day. In 1998, Congress expanded the National School Lunch Program to include reimbursement for snacks served to children up to 18 years of age in after-school educational and enrichment programs. The USDA Food Connect Web site was developed to help schools find the most nutritious, value-added foods purchased by the Federal Government, as well as commercial product available for purchase directly from processors.

Institutional food service professionals (public and private schools) who choose to register on the USDA Food Connect Web site provide the following information: The registrant's name, position, email address, telephone number, and the school/organization name and address. Information provided by institutional food service professionals helps processors and brokers view the school/organization's meal-serving information.

Processors who choose to register on the USDA Food Connect Web site provide the following information: Confirmation that the company is eligible to participate in Federal procurement; the registrant's name, position, email address, telephone number, company name, address, and country; and whether they are a national or regional processor. Processor information helps institutional food service professionals locate processors and distributors that handle food products for purchase.

Brokers who choose to register on the USDA Food Connect Web site provide the following information: The registrant's name, position, email address, and telephone number; the brokerage company name, address, and country; and the States they serve. The information provided by brokers allows institutional food service professionals to know which manufacturers the broker represents, which States the broker serves, and contacts at the brokerage firm.

Food related associations who choose to register on the USDA Food Connect Web site provide the following information: The association's name, address, city, state, zip code, country, email address, and telephone number; and, a description of association services.

All registrants on the USDA Food Connect Web site use the USDA eAuthentication Web site to register (OMB No. 0503–0014). Each new user must create their own login identification and password that meet eAuthentication requirements.

The USDA Food Connect Web site has undergone several changes since this information collection was approved on January 10, 2010. The database upload function was disabled because the function was not working properly. Processors used this upload function to input their products via electronic transfer. Also, new allergen information was provided. At the request of food service professionals, we added data fields for eight common allergens in foods: Milk, fish, wheat, crustacean shellfish, egg, peanuts, tree nuts, and soybean in foods. If the product does not contain these allergens, the processor must indicate this in the provided data field. This required an additional minute to complete the forms for each product submission. In addition, the Web site was enhanced to allow processors to indicate if their products meet any of the following

"Special Product Types" criteria: Kosher, Organic, Whole Grain, Vegan, and Vegetarian (no meat). Five data fields were added for this information that added one minute to the form completion time for each product submission. Food Connect was also changed so processors may enter the Child Nutrition (CN) label number for CN-labeled products. The USDA, CN Labeling Program provides food manufacturers the option to include a standardized food crediting statement on their product label. Labels must be authorized by USDA's Food and Nutrition Service (FNS) prior to use, and manufacturers must have quality control procedures and inspection oversight that meet FNS requirements. Products produced in accordance with the CN Labeling Program are generally purchased by foodservice providers for FNS meal programs. One data field was added for the CN label number and resulted in an additional half-minute to complete the forms for each product submission.

In 2012, based upon the California Department of Education, AMS launched a modified USDA Food Connect Web site that included an enhanced link to the portal, titled "CA Competitive Foods," that is viewable only by California schools. California has two sets of nutrition standards for competitive foods and beverages based on grade level: One for elementary schools and one for middle and high schools. The Web site enhancements allow California schools to select either one or both standards based on the type of school, and to find products that meet California's nutrition standards for competitive foods and beverages. The California portal adds a half-minute and two data fields for processors and distributors who want to sell their products in California, allowing them to identify their products as meeting the State's competitive foods laws.

Estimating Burden: The estimated total burden for revision of a currently approved information collection for the USDA Food Connect Web site once USDA eAuthentication Web site registration is completed is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.15 hours per response.

Respondents: Institutional food service professionals (public and private schools), processors, distributors, brokers, and associations.

Estimated Number of Respondents: 1,215 (620 institutional food service professionals, 430 processors, no distributors, 107 brokers, and 58 associations).

Estimated Number of Responses: 1907.

Estimated Number of Responses per Respondent: 1.57.

Estimated Total Annual Burden on Respondents: 297 hours.

A new option for California portal is being submitted with this collection.

(1) Processors add a new product registration submission to the California portal for products that are compliant with California Competitive Food and Beverage Standards (A Single Product). Processors use this registration submission to register their products manufactured from USDA supplied commodities and their commercial food products that meet the California Competitive Food and Beverage Standards, on the USDA Food Connect Web site using this method. Processors may select either one or both nutrition standards based on the type of school to indicate that a product meets one or both of the California Competitive Food and Beverage Standards.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.008 hours per response.

Respondents: Processors.

Estimated Number of Respondents: 9.

Estimated Number of Responses: 135.

Estimated Number of Responses per Respondent: 15. Each respondent completes this submission once for each product they register.

Estimated Total Annual Burden on Respondents: 1.08 hours.

(2) Processors add a new product registration submission to the California portal for products that are compliant with California Competitive Food and Beverage Standards (Excel spreadsheet). Processors use this registration submission to register their products manufactured from USDA supplied commodities and their commercial food products that meet the California Competitive Food and Beverage Standards, on the USDA Food Connect Web site using this method. Processors may select either one or both nutrition standards based on the type of school to indicate that a product meets the one or both of the California Competitive Food and Beverage Standards.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.008 hours per response.

Respondents: Processors.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 150.

Estimated Number of Responses per Respondent: 15. Each respondent completes this submission once for each product they register.

Estimated Total Annual Burden on Respondents: 1.20 hours.

Comments: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on those who are respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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: August 27, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–21311 Filed 8–30–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Western Pacific Community Development Program.

OMB Control Number: 0648–0612.

Form Number(s): NA.

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

Number of Respondents: 5.

Average Hours Per Response: 6 hours.

Burden Hours: 30.

Needs and Uses: This request is for an extension of a currently approved information collection.

The Federal regulations at 50 CFR part 665 authorize the Regional Administrator of the National Marine Fisheries Service (NMFS), Pacific Island Region to provide eligible western Pacific communities with access to fisheries that they have traditionally depended upon, but may not have the

capabilities to support continued and substantial participation, possibly due to economic, regulatory, or other barriers. To be eligible to participate in the western Pacific community development program, a community must meet the criteria set forth in 50 CFR part 665.20, and submit a community development plan that describes the purposes and goals of the plan, the justification for proposed fishing activities, and the degree of involvement by the indigenous community members, including contact information.

This collection of information provides NMFS and the Western Pacific Fishery Management Council with data to determine whether a community that submits a community development plan meets the regulatory requirements for participation in the program, and whether the activities proposed under the plan are consistent with the intent of the program, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws. The information is also important for evaluating potential impacts of the proposed community development plan activities on fish stocks, endangered species, marine mammals, and other components of the affected environment for the purposes of compliance with the National Environmental Policy Act, the Endangered Species Act and other applicable laws.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or maintain benefits.

OMB Desk Officer: OIRA_Submission@omb.eop.gov.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at JJessup@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: August 27, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–21303 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–37–2013]

Foreign-Trade Zone 26—Atlanta, Georgia, Authorization of Production Activity PBR, Inc. d/b/a SKAPS Industries (Polypropylene Geotextiles), Athens, Georgia

On April 8, 2013, Georgia Foreign-Trade Zone, Inc., grantee of FTZ 26, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of PBR, Inc. d/b/a SKAPS Industries (SKAPS Industries), in Athens, Georgia.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 25253, 4–30–2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized for an initial period of five years (to 8–23–2018), subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14, and further subject to a restriction requiring that SKAPS Industries admit all foreign-status polypropylene fiber to the zone under privileged foreign status (19 CFR 146.41)

Dated: August 23, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–21235 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for October 2013

The following Sunset Reviews are scheduled for initiation in October 2013 and will appear in that month's Notice of Initiation of Five-Year Sunset Review ("Sunset Review").

	Department contact
Antidumping duty proceedings	
Polyethylene Terephthalate (Pet) Film from Brazil (A–351–841) (1st Review)	Dana Mermelstein (202) 482–1391.
Polyethylene Terephthalate (Pet) Film from China (A–570–924) (1st Review)	Dana Mermelstein (202) 482–1391.
Lightweight Thermal Paper from China (A–570–920) (1st Review)	David Goldberger (202) 482–4136.
Lightweight Thermal Paper from Germany (A–428–840) (1st Review)	David Goldberger (202) 482–4136.
Polyethylene Terephthalate (Pet) Film from United Arab Emirates (1st Review) (A–520–803)	Dana Mermelstein (202)482–1391.
Countervailing Duty Proceedings	
Lightweight Thermal Paper from China (1st Review) (C–570–921)	David Goldberger (202) 482–4136.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in October 2013..	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 7, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–21393 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with 19 CFR 351.213, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be "collapsed" (*i.e.*, treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after September 2013, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its "Opportunity to Request Administrative Review" notices, so that interested parties will be aware of the manner in

which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of September 2013,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

	Period of Review
Antidumping Duty Proceedings	
Belarus: Steel Concrete Reinforcing Bars A–822–804	9/1/12–8/31/13
India: Certain Lined Paper Products A–533–843	9/1/12–8/31/13
Indonesia: Steel Concrete Reinforcing Bars A–560–811	9/1/12–8/31/13
Italy: Stainless Steel Wire Rod A–475–820	9/1/12–8/31/13
Japan: Stainless Steel Wire Rod A–588–843	9/1/12–8/31/13
Latvia: Steel Concrete Reinforcing Bars A–449–804	9/1/12–8/31/13
Mexico: Certain Magnesia Carbon Bricks A–201–837	9/1/12–8/31/13
Moldova: Steel Concrete Reinforcing Bars A–841–804	9/1/12–8/31/13
Poland: Steel Concrete Reinforcing Bars A–455–803	9/1/12–8/31/13
Republic of Korea: Stainless Steel Wire Rod A–580–829	9/1/12–8/31/13
Spain: Stainless Steel Wire Rod A–469–807	9/1/12–8/31/13
Taiwan:	
Narrow Woven Ribbons with Woven Selvedge A–583–844	9/1/12–8/31/13
Raw Flexible Magnets A–583–842	9/1/12–8/31/13
Stainless Steel Wire Rod A–583–828	9/1/12–8/31/13
The People's Republic of China:	
Certain Lined Paper Products A–570–901	9/1/12–8/31/13
Certain Magnesia Carbon Bricks A–570–954	9/1/12–8/31/13
Freshwater Crawfish Tailmeat A–570–848	9/1/12–8/31/13
Foundry Coke A–570–862	9/1/12–8/31/13
Kitchen Appliance Shelving and Racks A–570–941	9/1/12–8/31/13
Narrow Woven Ribbons with Woven Selvedge A–570–952	9/1/12–8/31/13
New Pneumatic Off-The-Road Tires A–570–912	9/1/12–8/31/13
Raw Flexible Magnets A–570–922	9/1/12–8/31/13
Steel Concrete Reinforcing Bars A–570–860	9/1/12–8/31/13
Ukraine:	
Solid Agricultural Grade Ammonium Nitrate A–823–810	9/1/12–8/31/13
Steel Concrete Reinforcing Bars A–823–809	9/1/12–8/31/13
Countervailing Duty Proceedings	
India: Certain Lined Paper Products C–533–844	1/1/12–12/31/12
The People's Republic of China:	
Certain Magnesia Carbon Bricks C–570–955	1/1/12–12/31/12
Narrow Woven Ribbons with Woven Selvedge C–570–953	1/1/12–12/31/12
New Pneumatic Off-The-Road Tires C–570–913	1/1/12–12/31/12
Kitchen Appliance Shelving and Racks C–570–942	1/1/12–12/31/12
Raw Flexible Magnets C–570–923	1/1/12–12/31/12
Suspension Agreements	
Argentina: Lemon Juice A–357–818	9/1/12–8/31/13
Mexico: Lemon Juice A–201–835	9/1/12–8/31/13

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

(October 24, 2011) the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://trade.gov/ia.*

All requests must be filed electronically in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS") on the IA ACCESS Web site at *http://iaaccess.trade.gov. See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of September 2013. If the Department does not receive, by the last day of September 2013, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 7, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–21384 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating five-year reviews ("Sunset Reviews") of the antidumping and countervailing duty ("AD/CVD") orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective:* (September 1, 2013).

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998), and in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–602–806	731–TA–1124	Australia	Electrolytic Manganese Dioxide (1st Review).	Jennifer Moats (202) 482–5047.
A–570–919	731–TA–1125	China	Electrolytic Manganese Dioxide (1st Review).	Jennifer Moats (202) 482–5047.
A–570–918	731–TA–1123	China	Steel Wire Garment Hangers (1st Review).	Jennifer Moats (202) 482–5047.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: "*http://ia.ita.doc.gov/sunset/.*" All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"), can be found at 19 CFR 351.303. *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in

effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after August 16, 2013. *See Certification of Factual* Information To Import Administration During Antidumping and Countervailing Duty *Proceedings*, 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)). The formats for the revised certifications are provided at the end of the *Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://ia.ita.doc.gov/frn/2013/1304frn/2013-08227.txt*, prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

Dated: August 13, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–21386 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–DS–P

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

President's Export Council; Meeting

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council will hold a meeting to deliberate on recommendations related to promoting the expansion of U.S. exports. Topics may include trade promotion authority; priorities for the Ninth World Trade Organization Ministerial Conference; forced localization policies; understanding best value in government procurement; de minimis reform; intellectual property protections in the Trans-Pacific Partnership agreement; expansion of the Information Technology Agreement; and export control reform. The final agenda will be posted at least one week in advance of the meeting on the President's Export Council Web site at *http://trade.gov/pec.*

DATES: September 19, 2013 at 9:30 a.m. (ET).

ADDRESSES: The President's Export Council meeting will be broadcast via live webcast on the Internet at *http://whitehouse.gov/live.*

FOR FURTHER INFORMATION CONTACT: Tricia Van Orden, Executive Secretary, President's Export Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC, 20230, telephone: 202–482–5876, email: *tricia.vanorden@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The President's Export Council was first established by

Executive Order on December 20, 1973 to advise the President on matters relating to U.S. export trade and to report to the President on its activities and recommendations for expanding U.S. exports. The President's Export Council was renewed most recently by Executive Order 13585 of September 30, 2011, for the two-year period ending September 30, 2013. This Committee is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

Public Submissions: The public is invited to submit written statements to the President's Export Council by C.O.B. September 17, 2013 by either of the following methods:

Electronic Submissions

Submit statements electronically to Tricia Van Orden, Executive Secretary, President's Export Council via email: *tricia.vanorden@trade.gov.*

Paper Submissions

Send paper statements to Tricia Van Orden, Executive Secretary, President's Export Council, Room 4043, 1401 Constitution Avenue NW, Washington, DC, 20230. Statements will be posted on the President's Export Council Web site (*http://trade.gov/pec*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

Meeting minutes: Copies of the Council's meeting minutes will be available within ninety (90) days of the meeting.

Dated: August 29, 2013.

Tricia Van Orden,

Executive Secretary, President's Export Council.

[FR Doc. 2013–21459 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC845

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) Observer Advisory Committee (OAC) will meet in Seattle, WA.

DATES: The meetings will be held September 18–19, 2013. The meeting will be held from 8:30 a.m. to 5 p.m. on September 18, and from 8:30 to 12:30 or until finished on September 19.

ADDRESSES: The meetings will be held at the Alaska Fishery Science Center, 7600 Sand Point Way NE., Building 4, Observer Training Room, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff, telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The agenda items include: Update on implementation of observer restructuring, Presentation of draft 2014 observer annual deployment plan (ADP), Review of NMFS letter responding to Council recommendations and requests for the 2014 ADP, Public Comment, OAC discussion and recommendations, Scheduling and other issues including discussion of voluntary observer coverage for clean up IFQ trips involving multiple regulatory areas.

The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/*

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 28, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–21368 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC847

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Skate Advisory Panel and Skate Oversight Committee on September 20, 2013 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, September 20, 2013 at 9:30 a.m.

ADDRESSES: *Meeting address:* The meeting will be held at the Holiday Inn, One Newbury Street, Peabody, MA 019601; telephone: (978) 535–4600; fax: (978) 535–8238.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Skate Oversight Committee and Advisory Panel will consider updated status determinations from the Plan Development (PDT) and recommendations for the Skate Allowable Biological Catch (ABC), pending a review by the Science and Statistical Committee (SSC). The Committee and Advisory Panel will discuss the overfishing status of thorny and winter skates. The Committee and Advisory Panel will also discuss priorities for 2014.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically

listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 28, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–21369 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC844

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (NPFMC) Bering Sea Aleutian Islands (BSAI) Crab Plan Team (CPT) will meet in Seattle, WA.

DATES: The meeting will be held September 17–20, 2013—from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Alaska Fishery Science Center, 7600 Sand Point Way NE., Building 4, Traynor Room, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Stram, at (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Plan Team meeting agenda includes review of 2013 survey results, stock assessments for Norton Sound red king crab, Tanner crab, snow crab, Pribilof Islands red king crab, Pribilof Islands blue king crab, St. Matthew blue king crab, and discussion of Aleutian Islands and Pribilof Islands golden king crab 2014 assessments.

The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/.*

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

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 28, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–21333 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC841

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, September 18, 2013 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Best Western Hotel, 580 US Highway 1, Interstate Traffic Circle, Portsmouth, NH 03801; telephone: (603) 436–7600; fax: (603) 436–7600.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review scallop survey information and preliminary recommendations from the Scallop Plan Development Team (PDT) for FY 2014 and FY 2015 (default) fishery specifications (Framework 25). The Committee will also provide input on other measures under consideration in Framework 25: (1) accountability measures for the Southern New England/Mid-Atlantic windowpane flounder sub-ACL (annual catch limit); and (2) measures to address unused 2014 Closed Area I access area trips. The Committee will review a draft of the Limited Access General Category Individual Fleet Quota (LAGC IFQ) Performance Report being prepared by the Scallop PDT. The IFQ Report is not final and will not be presented to the Council at this time but Committee members will have the opportunity to provide initial feedback. The Committee will also discuss possible priorities for scallop related actions for 2014 and make recommendations to the Scallop Committee for consideration. In addition, the Committee will briefly review the overall findings of the recent biological opinion of the sea scallop fishery related to sea turtles and Atlantic Sturgeon. There will be a closed session to review/recommend Advisory panel applications for the next 3-year term (2014–16) term). Other business may be discussed.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 28, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–21367 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Proposed Information Collection; Comment Request; BroadbandMatch Web Site Tool

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 4, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Maureen Lewis, Office of Telecommunications and Information Applications, NTIA, *MLewis@ntia.doc.gov*, or (202) 482–1892.

SUPPLEMENTARY INFORMATION:

I. Abstract

NTIA proposes to continue BroadbandMatch as an online resource for communities pursuing broadband projects and programs to advance the Obama Administration's goal of increased broadband deployment and use in the United States. The BroadbandMatch Web site began during the final funding round of NTIA's Broadband Technology Opportunities Program (BTOP) and the U.S. Department of Agriculture's Broadband Initiatives Program (BIP) as a tool for potential applicants to identify possible partners whose resources and expertise could strengthen the project proposals. NTIA obtained Office of Management and Budget (OMB) approval to extend BroadbandMatch beyond the September 30, 2010 funding award deadline Congress established in the American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115 (2009) (Recovery Act), that authorized BTOP and BIP. NTIA believes BroadbandMatch has ongoing utility and ability to cost effectively advance the Administration's goals by facilitating sharing among BTOP grantees and others of best practices for completing successful broadband projects and facilitating partnerships to undertake new broadband projects. BroadbandMatch helps inexpensively to leverage Recovery Act investments to achieve the Administration's ongoing goal of ensuring that all Americans can access affordable, ubiquitous broadband service and develop the skills to use this empowering technology effectively.

II. Method of Collection

BroadbandMatch users access the Web site through an Internet browser and voluntarily complete a brief profile requesting: (1) The point of contact's name, organization, phone number, email address, and associated Web site URL; (2) the state(s) where the user seeks potential partners; the type(s) of partner(s) sought; and (3) a description of the project and the desired benefits of partnering. NTIA verifies the registrant's email address, which becomes the registrant's user name, and emails an assigned password. Registered users may then search the database for potential project partners by organization type, state(s) or keyword(s).

III. Data

OMB Control Number: 0660–0033.

Form Number(s): None

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

Affected Public: Individuals; business or other for-profit organizations; not-for-profit institutions; and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 4,500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1,125.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 27, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–21293 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority Board Special Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Public Meeting of the First Responder Network Authority.

SUMMARY: The Board of the First Responder Network Authority (FirstNet) will hold a Special Meeting via telephone conference (teleconference) on September 5, 2013.

DATES: The Special Meeting will be held on Thursday, September 5, 2013, from 4:00 to 5:00 p.m. Eastern Daylight Time.

ADDRESSES: The Special Meeting will be conducted via teleconference. Members of the public may listen to the meeting by dialing toll-free 1 (888) 469–3306 and using passcode "FirstNet." Due to the limited number of ports, attendance via teleconference will be on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Uzoma Onyeije, Secretary, FirstNet, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230: telephone (202) 482–0016; email *uzoma@firstnet.gov*. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: The Middle Class Tax Relief and Job Creation Act of 2012

(Act), Public Law 112–96, 126 Stat. 156 (2012), created FirstNet as an independent authority within the NTIA. The Act directs FirstNet to establish a single nationwide, interoperable public safety broadband network. The FirstNet Board is responsible for making strategic decisions regarding FirstNet's operations. As provided in Section 4.08 of the FirstNet Bylaws, the Board through this Notice provides at least two days' notice of a Special Meeting of the Board to be held on September 5, 2013. The Board may, by a majority vote, close a portion of the Special Meeting as necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting FirstNet, including pending or potential litigation. *See* 47 U.S.C. 1424(e)(2).

Matters to Be Considered: NTIA will post an agenda for the Special Meeting on its Web site at *http://www.ntia.doc.gov/category/firstnet* prior to the meeting. The agenda topics are subject to change.

Time and Date: The Special Meeting will be held on September 5, 2013, from 4:00 to 5:00 p.m. Eastern Daylight Time. The times and dates are subject to change. Please refer to NTIA's Web site at *http://www.ntia.doc.gov/category/firstnet* for the most up-to-date information.

Other Information: The teleconference for the Special Meeting is open to the public. On the date and time of the Special Meeting, members of the public may call toll-free 1 (888) 469–3306 and use passcode "FirstNet" to listen to the meeting. If you experience technical difficulties, please contact Helen Shaw by telephone (202) 482–1157; or via email *hshaw@ntia.doc.gov*. Public access will be limited to listen-only. Due to the limited number of ports, attendance via teleconference will be on a first-come, first-served basis. The Special Meeting is accessible to people with disabilities. Individuals requiring accommodations are asked to notify Mr. Onyeije, by telephone (202) 482–0016 or email *uzoma@firstnet.gov*, at least two days (2) business days before the meeting.

Records: NTIA maintains records of all Board proceedings. Board minutes will be available at *http://www.ntia.doc.gov/category/firstnet*.

Dated: August 28, 2013.

Kathy D. Smith,

Chief Counsel.

[FR Doc. 2013–21351 Filed 8–30–13; 8:45 am]

BILLING CODE 3510–60–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 19 September 2013, at 9:00 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW., Washington DC, 20001–2728. Items of discussion may include buildings, parks, and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *www.cfa.gov*. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *CFAStaff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: August 23, 2013, in Washington, DC.

Thomas Luebke,

Secretary, AIA.

[FR Doc. 2013–21269 Filed 8–30–13; 8:45 am]

BILLING CODE 6331–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 13–38]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 13–38 with attached transmittal and policy justification.

Dated: August 27, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON VA 22202-5408

AUG 23 2013

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 13-38, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Kingdom of Saudi Arabia for defense articles and services estimated to cost $1.2 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

FOR William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 13–38

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 0 billion.
Other	$1.2 billion.
TOTAL	$1.2 billion.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* follow-on support and services for Royal Saudi Air Force (RSAF) aircraft, engines and weapons, to include contractor technical services, logistics support, maintenance support, spares, equipment repair, expendables, support and test equipment, communication support, precision measuring equipment, personnel training and training equipment, technical support, exercises, deployments and other related elements of program support services, U.S. Government and contractor technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (QAY)

(v) *Prior Related Cases, if any:*
FMS case GAG—$38.0M—4Apr10
FMS case QBJ—$224.0M—18Jul10
FMS case QBI—$250.0M—16Jun10
FMS case QAY—$147.4M—5Jun10
FMS case KDB—$120.0M—15Feb10
FMS case QAV—$23.0M—18Oct09
FMS case KCZ—$95.4M—27Feb07
FMS case QDE—$202.4M—15Mar06
FMS case QZQ—$54.3M—5May04
FMS case QZX—$62.4M—24Dec03
FMS case CCZ—$48.4M—12Aug02

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 22 August 2013

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Saudi Arabia—Sustainment and Support

The Government of Saudi Arabia has requested a possible sale of follow-on support and services for Royal Saudi Air Force (RSAF) aircraft, engines and weapons, to include contractor technical services, logistics support, maintenance support, spares, equipment repair, expendables, support and test equipment, communication support, precision measuring equipment, personnel training and training equipment, technical support, exercises, deployments and other related elements of program support services, U.S. Government and contractor technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $1.2 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Saudi Arabia needs this follow on maintenance and logistical support to sustain the combat and operational readiness of its existing aircraft fleet.

The proposed sale of this support and services will not alter the basic military balance in the region.

There is no prime contractor involved in this proposed sale. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

[FR Doc. 2013–21267 Filed 8–30–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Military Family Readiness Council (MFRC)

AGENCY: Department of Defense.

ACTION: Notice of federal advisory committee meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces a Federal advisory committee meeting of the Defense Military Family Readiness Council. The purpose of the Council meeting is to review and make recommendations to the Secretary of Defense regarding policy and plans; monitor requirements for the support of military family readiness by the Department of Defense; and evaluate and assess the effectiveness of the military family readiness programs and activities of the Department of Defense.

DATES: Friday, October 18, 2013, from 1:00 p.m. to 2:30 p.m.

ADDRESSES: Pentagon Conference Center B2 (escorts will be provided from the Pentagon Metro entrance).

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Ms. Betsy Graham, Office of the Deputy Assistant Secretary of Defense (Military Community & Family Policy), 4800 Mark Center Drive Alexandria, VA 22350–2300, Room 3G15. Telephones (571) 372–0880; (571) 372–0881 and/or email: OSD Pentagon OUSD P–R Mailbox Family Readiness Council, *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil.*

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to refine the Council recommendations that will be included in the 2013 Military Family Readiness Council report to the congressional defense committees and the Secretary of Defense.

Friday, October 18, 2013 Meeting agenda

Welcome & Administrative Remarks;

Review and summary of fiscal year 2013 Military Family Readiness Council proceedings;

Presentation, deliberation and vote on fiscal year 2013 recommendations;

Closing Remarks;

Note: Exact order may vary.

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to the availability of space. Persons desiring to attend may contact Ms. Melody McDonald at 571–372–0880 or email OSD Pentagon OUSD P–R Mailbox Family Readiness Council, *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil* no later than 5:00 p.m., on Friday, October 4, 2013 to arrange for escort inside the Pentagon to the Conference Room area.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, interested persons may submit a written statement for consideration by the Council. Persons desiring to submit a written statement to the Council must notify the point of contact listed in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., Friday, September 27, 2013.

Dated: August 28, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–21352 Filed 8–30–13; 8:45 am]

BILLING CODE 5001–06–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday September 11, 2013. A conference session and business meeting will be held the following day on Thursday, September 12, 2013. The hearing, conference session and business meeting are open to the public and will be held at The Enterprise Center at Burlington County College, 3331 Route 38, Mount Laurel, New Jersey.

Public Hearing. The public hearing on September 11, 2013 will begin at 1:30 p.m. Hearing items will include draft dockets for projects subject to the Commission's review. The list of projects scheduled for hearing, including project descriptions, is currently available in a long form of this notice posted on the Commission's Web site, *www.drbc.net*. Draft dockets scheduled for hearing are posted on the Web site approximately ten days prior to the hearing date. Written comments on draft dockets and resolutions scheduled for hearing on September 11 will be accepted through the close of the hearing that day. After the hearing on all scheduled matters has been completed, there will be an opportunity for public dialogue. Because hearings on particular

projects may be postponed to allow additional time for the commission's review, interested parties are advised to check the Web site periodically prior to the hearing date. Any postponements will be duly noted there.

Public Meeting. The public meeting on September 12, 2013 will begin at 12:15 p.m. and will consist of a conference session followed by a business meeting. The conference session will include a progress report by staff on implementation of the Water Resources Plan for the Delaware River Basin (DRBC 2004) and a presentation by a representative of the William Penn Foundation (WPF) on WPF's Delaware River Basin initiative. The business meeting will include the following items: Adoption of the Minutes of the Commission's July 10, 2013 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed. In addition to those items for which the public hearing is completed on September 11, 2013, items subject to Commission consideration during the Business Meeting on September 12 include Docket D–2006–037–3 for Hudson Valley Foie Gras, LLC ("HVFG"), for which the public hearing was completed on July 9, 2013. A revised version of the HVFG draft docket, which takes into consideration comments received during the public hearing on July 9, is available on the Commission's Web site. The Commissioners also may consider action on matters for which no public hearing is required.

There will be no opportunity for additional public comments at the September 12 business meeting on hearing items for which the hearing was completed on September 11 or a previous date. Commission consideration on September 12 of items for which the public hearing is closed may result in either approval of the docket or resolution as proposed, approval with changes, denial, or deferral. When the commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment for the record at the public hearing on September 11 or to address the Commissioners informally during the public dialogue portion of the hearing on September 11 are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.state.nj.us* or by phoning Ms. Schmitt at 609–883–9500 ext. 224.

Addresses for Written Comment. Written comment on items scheduled for hearing may be delivered by hand at the public hearing or submitted in advance of the hearing date to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522 or by email to *paula.schmitt@drbc.state.nj.us.* If submitted by email in advance of the hearing date, written comments on a docket should also be sent to *william.muszynski@drbc.state.nj.us.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Updates. Items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Other meeting items also are subject to change. Please check the Commission's Web site, *www.drbc.net,* closer to the meeting date for changes that may be made after the deadline for filing this notice.

Additional Information, Contacts. The list of projects scheduled for hearing, with descriptions, is currently available in a long form of this notice posted on the Commission's Web site, *www.drbc.net.* Draft dockets and resolutions for hearing items will be posted as hyperlinks from the notice at the same location approximately ten days prior to the hearing date. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Carol Adamovic, 609–883–9500, ext. 249. For other questions concerning hearing items, please contact Project Review Section assistant Victoria Lawson at 609–883–9500, ext. 216.

Dated: August 27, 2013.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2013–21358 Filed 8–30–13; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0087]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Trends in International Mathematics and Science Study (TIMSS): 2015 Recruitment and Field Test

AGENCY: Institute of Education Sciences/ National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement with change of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before October 3, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0087 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Acting Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105,Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Kathy Axt, 540–776–7742 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that

is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Trends in International Mathematics and Science Study (TIMSS): 2015 Recruitment and Field Test.

OMB Control Number: 1850–0695.

Type of Review: A reinstatement with change of a previously approved information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 14,537.

Total Estimated Number of Annual Burden Hours: 34,021.

Abstract: The Trends in Mathematics and Science Study (TIMSS) is an international assessment of fourth and eighth grade students' achievement in mathematics and science. Since its inception in 1995, TIMSS has continued to assess students every 4 years (1995, 1999, 2003, 2007, 2011). Participation in this study provides data on current and past education policies and a comparison of U.S. education policies with its international counterparts. Periodically, TIMSS has also conducted an assessment of advanced mathematics and physics of students at the end of secondary school (1995 and 2008). The United States participated in TIMSS Advanced in 1995, but not in 2008. Because of the current strong policy interest in preparedness for college and for careers in science, technology, engineering, and mathematics (STEM) fields, the U.S. plans to participate in TIMSS Advanced in 2015. This submission describes the overarching plan for all phases of the data collection, including the field test that will take place in March–April, 2014, and the main study that will take place in April–May, 2015. The purpose of the TIMSS field test is to evaluate new assessment items and background questions (including the new parent questionnaire), to ensure practices that promote low exclusion rates, and to ensure that classroom and student sampling procedures proposed for the main study are successful. This submission requests approval for recruitment for the 2014 field test and the 2015 main study; the 2014 field test data collection for TIMSS at grades 4 and 8 and TIMSS Advanced in grade 12; and a description of the overarching plan for all of the phases of the data collection, including data collection in the 2015 main study.

Dated: August 28, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–21323 Filed 8–30–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Emergency Information Collection Reinstatement

AGENCY: U.S. Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) will be submitting an emergency information collection request to the OMB for reinstatement under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a one hundred eighty (180) day approval of its Records and Administration, OMB Control Number 1910–1700. The proposed voluntary collection will request that an individual or an authorized designee provide pertinent information for easy record retrieval allowing for increased efficiencies and quicker processing. Pertinent information includes the requester's name, shipping address, phone number, email address, previous work location, the action requested and any identifying data that will help locate the records (maiden name, occupational license number, time and place of employment.

DATES: Comments regarding this collection must be received on or October 3, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments should be sent to: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to: Troy Manigault, Departmental Records Officer, Office of the Chief Information Officer, U.S. Department of Energy, 19901 Germantown Rd, Room G–312, Germantown, MD 20874, Phone: 301–903–9926 (Office), *troy.manigault@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: TheAnne E. Gordon, Associate CIO for IT Planning, Architecture, and E-Government, Office of the Chief Information Officer, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, 202–586–3705 (Office), *theanne.gordon@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–1700; (2) *Information Collection Request Title:* Records and Administration; (3) *Type of Request:* Reinstatement; (4) *Purpose:* The Privacy Act Information Request Form assists the Department of Energy in processing privacy requests submitted by an individual or an authorized designee where-in he or she is requesting records the government may maintain on them. This form will increase efficiencies including, but not limited to quicker processing of privacy requests by asking individuals or their designees pertinent information for easy record retrieval; (5) *Annual Estimated Number of Respondents:* 135; (6) *Annual Estimated Number of Total Responses:* 135; (7) *Annual Estimated Number of Burden Hours:* 45 hrs; *Annual Estimated Reporting and Recordkeeping Cost Burden:* N/A

Statutory Authority: The Privacy Act of 1974, 5 U.S.C. 552(a), 10 CFR 1008.7, and DOE Order 206.1.

Issued in Washington, DC, on August 26, 2013.

TheAnne E. Gordon,

Associate CIO for IT Planning, Architecture and E-Government, Office of the Chief Information Officer.

[FR Doc. 2013–21344 Filed 8–30–13; 8:45 am]

BILLING CODE 6450–01–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: ER13–2232–000

Applicants: Mustang Hills, LLC

Description: Category Seller Revision to be effective 8/24/2013.

Filed Date: 8/23/13

Accession Number: 20130823–5119
Comments Due: 5 p.m. ET 9/13/13

Docket Numbers: ER13–2233–000
Applicants: Midcontinent Independent System Operator, Inc.
Description: 08–23–2013 Order 764 Compliance Filing to be effective 5/6/2013.
Filed Date: 8/23/13
Accession Number: 20130823–5149
Comments Due: 5 p.m. ET 9/13/13

Docket Numbers: ER13–2234–000
Applicants: Interstate Power and Light Company
Description: Amended Exhibits and Attachments to O&T to be effective 10/22/2013.
Filed Date: 8/23/13
Accession Number: 20130823–5161
Comments Due: 5 p.m. ET 9/13/13

Docket Numbers: ER13–2235–000
Applicants: Southern California Edison Company
Description: True-Up SGIA & Distrib Serv Agmt with SCE's Power Production Dept to be effective 10/26/2013.
Filed Date: 8/23/13
Accession Number: 20130826–5000
Comments Due: 5 p.m. ET 9/13/13

Docket Numbers: ER13–2236–000
Applicants: Midcontinent Independent System Operator, Inc.
Description: Request for Waiver of Midcontinent Independent System Operator, Inc.
Filed Date: 8/23/13
Accession Number: 20130823–5170
Comments Due: 5 p.m. ET 9/13/13

Docket Numbers: ER13–2237–000
Applicants: Southern California Edison Company
Description: Southern California Edison Company submits Relay Upgrade Agreement at Palo Verde Switchyard with SRP to be effective 8/27/2013.
Filed Date: 8/26/13
Accession Number: 20130826–5161
Comments Due: 5 p.m. ET 9/16/13

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH13–23–000
Applicants: ArcLight Capital Holdings, LLC
Description: FERC–65A Exemption Request of ArcLight Capital Holdings, LLC.
Filed Date: 8/23/13
Accession Number: 20130823–5168
Comments Due: 5 p.m. ET 9/13/13

Docket Numbers: PH13–24–000
Applicants: JP Energy GP LLC and CB Capital Holdings
Description: FERC–65A Exemption Request of JPE Companies.
Filed Date: 08/26/2013
Accession Number: 20130826–5046
Comment Date: 5 p.m. ET 9/16/13

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 p.m. 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: August 26, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–21331 Filed 8–30–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1267–000.
Applicants: Texas Eastern Transmission, LP.
Description: Range 8929601 8–27–2013 Negotiated Rate to be effective 8/27/2013.
Filed Date: 8/27/13.
Accession Number: 20130827–5027.
Comments Due: 5 p.m. ET 9/9/13.

Docket Numbers: RP13–1268–000.
Applicants: Texas Eastern Transmission, LP.
Description: Texas Eastern Transmission, LP submits tariff filing per 154.204: Range 8929599 8–28–2013 Negotiated Rate to be effective 8/28/2013.
Filed Date: 8/27/13.
Accession Number: 20130827–5029.
Comments Due: 5 p.m. ET 9/9/13.

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 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–1000–001.
Applicants: Natural Gas Pipeline Company of America.
Description: Green Valley Compliance Filing to be effective 7/1/2013.
Filed Date: 8/26/13.
Accession Number: 20130826–5213.
Comments Due: 5 p.m. ET 9/9/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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: August 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–21349 Filed 8–30–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR13–33–000]

MIPC, LLC; Notice for Temporary Waiver of Filing and Reporting Requirements

Take notice that on August 22, 2013, MIPC, LLC filed a request for temporary waiver of the filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act, and Parts 341 and 357 of the Commission's regulations (18 CFR parts 341 and 357).

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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: 5:00 p.m. Eastern Time on September 23, 2013.

Dated: August 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–21332 Filed 8–30–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9900–60–OAR]

Notice of Public Meeting of the Interagency Steering Committee on Radiation Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) will host a meeting of the Interagency Steering Committee on Radiation Standards (ISCORS) on September 18, 2013 in Washington, DC. The purpose of ISCORS is to foster early resolution and coordination of regulatory issues associated with radiation standards. Member agencies include: EPA; the Nuclear Regulatory Commission; and Departments of Energy; Defense; Transportation; Homeland Security; Health and Human Services; and Labor's Occupational Safety and Health Administration. Observer agencies include: the Office of Science and Technology Policy, Office of Management and Budget, Defense Nuclear Facilities Safety Board, as well as state representatives from Arizona and Pennsylvania. ISCORS maintains several objectives: (1) Facilitate a consensus on allowable levels of radiation risk to the public and workers; (2) promote consistent and scientifically sound risk assessment and risk management approaches in setting and implementing standards for occupational and public protection from ionizing radiation; (3) promote completeness and coherence of Federal standards for radiation protection; and (4) identify interagency radiation protection issues and coordinate their resolution. ISCORS meetings include presentations by Subcommittee Chairs and discussions of current radiation protection issues. Committee meetings normally involve pre-decisional intra-governmental discussions and, as such, are normally not open for observation by members of the public or media. This particular ISCORS meeting is open to all interested members of the public. Time will be reserved on the agenda for members of the public to provide comments.

Please Note: A discussion on the draft International Atomic Energy Agency (IAEA) Safety Requirements document, DS457, Preparedness and Response for a Nuclear or Radiological Emergency, is scheduled for this meeting and is intended to provide an overview and invite viewpoints on the draft document during the IAEA Member State review process. The U.S. government, as a member state of the IAEA, is afforded an opportunity to provide comments. The draft document is available at: *http://www-ns.iaea.org/downloads/standards/drafts/ds457.pdf*. The IAEA Safety Standards are not binding on the U.S. and the standards are used in different ways in different countries. The U.S. does not routinely adopt IAEA Safety Standards, but has considered the safety standards as a useful point of reference in the development of proposals under the Administrative Procedure Act (APA) for changes to regulations or guidance in the United States. Members of the public who attend the ISCORS meeting will also be afforded the opportunity to provide any viewpoints that they might wish the U.S. government to consider in the development of comments. In light of the importance of this draft document, particularly in light of the events at the Fukushima Daiichi nuclear power station, this meeting provides an opportunity for inputs, but is not considered as a formal public comment. Any future actions by an agency of the U.S. government to consider use of the IAEA document, when finalized, will be subject to the normal APA process for notice and comment. Presentations of previous ISCORS public meetings are available at the ISCORS Web site, *www.iscors.org*. The final meeting agenda will be posted on the Web site shortly before the meeting.

DATES: The meeting will be held on September 18, 2013, from 1:00 p.m. to 4:30 p.m.

ADDRESSES: The ISCORS meeting will be held in Room 152 at the EPA building located at 1310 L Street NW., in Washington, DC. Attendees are required to present a photo ID such as a government agency photo identification badge or valid driver's license. Visitors and their belongings will be screened by EPA security guards. Visitors must sign the visitors log at the security desk and will be issued a visitors badge by the security guards to gain access to the meeting.

FOR FURTHER INFORMATION CONTACT: Marisa Thornton, Radiation Protection Division, Office of Radiation and Indoor Air, Mailcode 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone 202–343–9237; fax 202–343–2304; email *thornton.marisa@epa.gov*.

SUPPLEMENTARY INFORMATION: Pay parking is available for visitors at the Colonial parking garage next door in the Franklin Square building. Visitors can also ride metro to the McPherson Square (Blue and Orange Line) station and leave the station via the 14th Street exit. Walk two blocks north on 14th Street to L Street. Turn right at the corner of 14th and L Streets. EPA's 1310 L Street building is on the right towards the end of the block. Visit the ISCORS Web site, *www.iscors.org* for more detailed information.

Dated: August 21, 2013.

Michael P. Flynn,

Director, Office of Radiation and Indoor Air.

[FR Doc. 2013–21365 Filed 8–30–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0001; FRL–9395–9]

SFIREG Full Committee; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/ State FIFRA Issues Research and Evaluation Group (SFIREG), Pesticide Operations and Management (POM) Committee will hold a 2-day meeting, beginning on September 16, 2013, and ending September 17, 2013. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, September 16, 2013, from 8:30 a.m. to 5 p.m. and 8:30 a.m. to noon on Tuesday, September 17, 2013.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at EPA One Potomac Yard (South Bldg.), 2777 Crystal Dr., Arlington, VA, 4th Floor South Conference Room.

FOR FURTHER INFORMATION CONTACT: Ron Kendall, Field External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–5561; fax number: (703) 305–5884; email address: *kendall.ron@epa.gov* or Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number: (302) 422–8152; fax: (302) 422–2435; email address: Grier Stayton at *aapco-sfireg@comcast.net*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are interested in pesticide regulation issues affecting States and any discussion between EPA and SFIREG on FIFRA field implementation issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process. You are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetics Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and those who sell, distribute or use pesticides, as well as any non government organization.

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. 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?

The docket for this action, identified by docket ID number EPA–HQ–OPP–2013–0001 is available at *http://www.regulations.gov*, or at the Office of Pesticide Programs Regulatory Public Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. Tentative Agenda Topics

1. OPP update on methomyl.
2. OECA update on measures development.
3. Grant guidance template discussion.
4. Regional case referrals-how to improve efficiencies.
5. NPIC workgroup update.
6. Pollinator protection label language.
7. 24c Guidance workgroup discussion.
8. Laboratory methods for Compost.
9. Discussion of geographic labeling.
10. USDA pest management policy program.
11. Fumigant stakeholders discussion.

III. How can I request to participate in this meeting?

This meeting is open for the public to attend. You may attend the meeting without further notification.

List of Subjects

Environmental protection.

Dated: August 19, 2013.

Jay S. Ellenberger,

Acting Director, Field External Affairs Division, Office of Pesticide Programs.

[FR Doc. 2013–21364 Filed 8–30–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2013–6003]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 92–30 Report of Premiums Payable for Financial Institutions Only.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine eligibility of the export sales for insurance coverage. The Report of Premiums Payable for Financial Institutions Only is used to determine the eligibility of the shipment(s) and to calculate the premium due to Ex-Im Bank for its support of the shipment(s) under its insurance program. Export-Import Bank customers will be able to submit this form on paper or electronically.

The Export-Import Bank has made a change to the report to have the insured financial institution provide the industry code (NAICS) associated with each specific export. The insured financial institution already provides a short description of the goods and/or services being exported. This additional piece of information will allow Ex-Im Bank to better track what exports it is covering with its insurance policy.

The information collection tool can be reviewed at: *http://www.exim.gov/pub/pending/eib92-30-new.pdf.*

DATES: Comments must be received on or before November 4, 2013 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92–30 Report of Premiums Payable for Financial Institutions Only.

OMB Number: 3048–0021.

Type of Review: Regular.

Need and Use: This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine eligibility

of the applicant for Ex-Im Bank assistance. The information collected enables Ex-Im Bank to determine the eligibility of the shipment(s) for insurance and to calculate the premium due to Ex-Im Bank for its support of the shipment(s) under its insurance program.

Affected Public:

This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 215.

Estimated Time per Respondent: 20 minutes.

Annual Burden Hours: 860 hours.

Frequency of Reporting of Use: Monthly.

Government Expenses:

Reviewing Time per Year: 860 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $36,550. (time*wages).

Benefits and Overhead: 20%.

Total Government Cost: $43,860.

Kalesha Malloy,

Agency Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2013–21324 Filed 8–30–13; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Friday, September 27, 2013 at 11:00 a.m. The meeting will be held at Ex-Im Bank in Room 321, 811 Vermont Avenue NW., Washington, DC 20571.

OPEN AGENDA ITEMS: Item No. 1: Proposed Extension of the 2012 Sub-Saharan Africa Advisory Committee Members.

PUBLIC PARTICIPATION: The meeting will be open to public observation for Item No. 1 only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to attend the meeting should call Joyce Stone, Office of the Secretariat, 811 Vermont Avenue NW., Washington, DC 20571 (202) 565–3336 by close of business Wednesday, September 25, 2013.

Cristopolis A. Dieguez,

Program Specialist, Office of General Counsel.

[FR Doc. 2013–21490 Filed 8–29–13; 4:15 pm]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Debarment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: Larry Lehmann has agreed to debarment from the schools and libraries universal service support mechanism (or "E-Rate Program"), and government-wide Voluntary Exclusion from procurement and non-procurement programs. Both the debarment and Voluntary Exclusion are for a period of ten years. The United States government took this action to ensure that the E-Rate program and other federal programs are free from fraudulent and deceitful claims.

DATES: Debarment commenced on July 31, 2013, for a period of ten years.

FOR FURTHER INFORMATION CONTACT: Hillary B. Burchuk, Trial Attorney, Federal Communications Commission, Office of General Counsel, 445 12th Street SW., Washington, DC 20554. Hillary Burchuk may be contacted by telephone at (202) 418–1719 or by email at *hillary.burchuk@fcc.gov*. If Ms. Burchuk is unavailable, you may contact Jim Bird, Office of General Counsel at telephone (202) 418–7802 or *jim.bird@fcc.gov*.

SUPPLEMENTARY INFORMATION: Mr. Lehmann agreed to debarment and exclusion in connection with the settlement of *U.S. ex re. Dave Richardson and Dave Gillis v. Larry Lehmann*, No. 4:04–cv–3836 (S.D. Tex.). The complete text of the Settlement Agreement and Voluntary Debarment Agreement is available at *http://transition.fcc.gov/eb/usfc/vnr.html*.

Federal Communications Commission.

Hillary B. Burchuk,

Trial Attorney, Litigation Division, Office of General Counsel.

[FR Doc. 2013–21032 Filed 8–30–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 13, 2013.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Harold Lynn Keene and Charlotte Keen, individually and as trustees, H.L. Keene, L.L.C., Arbutus Keene, The Harold Lynn Keene Trust, The Charlotte Keene Trust, and Elizabeth Keene,* all of Lebanon, Virginia, as group acting in concert, to retain control of New Peoples Bankshares, Inc., Honaker, Virginia, and thereby retain shares of New Peoples Bank, Honaker, Virginia.

Board of Governors of the Federal Reserve System, August 27, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–21283 Filed 8–30–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0169; Docket 2013–0077; Sequence 7]

Federal Acquisition Regulation; Information Collection; American Recovery and Reinvestment Act-Reporting Requirements—Quarterly Reporting for Prime Contractors

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

ACTION: Notice of request for comments regarding an extension, with changes, to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat, will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors.

DATES: Submit comments on or before November 4, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000–0169, American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0169, American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0169, American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Hada Flowers/IC 9000–0169, American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors.

Instructions: Please submit comments only and cite Information Collection 9000–0169, American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Acquisition Policy, at telephone 202–501–1448 or via email to *Curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with Federal Acquisition Regulation (FAR) subpart 4.15 and the applicable clause at FAR 52.204–11, which implements the statutory requirements section 1512(c) of Division A of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act), as a condition of receipt of funds, contractors that receive awards (or modifications to existing awards) funded, in whole or in part by the Recovery Act, shall report quarterly on the use of the funds. Elements updated quarterly for which the burden is imposed by the FAR requirements on the prime contractor include the following:

a. The amount of Recovery Act funds invoiced by the contractor, cumulative since the beginning of the contract;

b. A list of all significant services performed or supplies delivered, including construction, for which the contractor has invoiced;

c. An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act;

d. A narrative description of the employment impact of the Recovery Act funded work; and

e. For subcontracts valued at less than $25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under $300,000, the contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.

B. Annual Reporting Burden

This information collection reflects a downward adjustment from what was published in the **Federal Register** on September 24, 2010, at 75 FR 58388, for the number of respondents required to comply with the requirements of FAR subpart 4.15 and the associated FAR clause at 52.204–11, American Recovery and Reinvestment Act—Reporting Requirements. This change is primarily due to fewer Recovery Act funds available for award.

In Fiscal Year (FY) 2010, Federal Procurement Data System (FPDS) indicates that there were 33,041 Recovery Act prime contract awards, including modifications (21,767 awarded to small businesses), to 8,896 unique vendors. In FY 2012, FPDS indicates that there were 6,312 Recovery Act prime contract awards, including modifications (3,156 awarded to small businesses), to 2,247 unique vendors. This change represents an approximately 75 percent decrease in the number of unique vendors from FY 2010. Consequently, it was determined that FY 2012 FPDS data was a sufficient baseline for estimating the number of respondents per year (2,247) that would need to comply with the applicable clause associated with this information collection. The estimate number of responses per respondent is based on an estimated average of the number of respondents divided by the estimated number of unique vendors. In discussions with subject matter experts, it was determined that an estimated number of responses per respondent of two, rounded down from 2.8, was sufficient to reflect the lower number of Recovery Act funds available for award. Additionally, it is estimated that the burden hours per response is four hours (4.0), which reflects no change from what was published **Federal Register** on September 24, 2010, at 75 FR 58388. No public comments were received in prior years that have challenged the validity of the Government's estimate.

Respondents: 2,247.

Responses per Respondent: 2.0.

Total Annual Reponses: 4,494.

Hours per Response: 4.0

Total Burden Hours: 17,976.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0169, American Recovery and Reinvestment Act-Reporting Requirements—Quarterly Reporting for Prime Contractors, in all correspondence.

Dated: August 28, 2013.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2013–21350 Filed 8–30–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0166; Docket 2013–0077; Sequence 4]

Information Collection; American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors

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

ACTION: Notice of request for comments regarding an extension, with changes, to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, Regulatory Secretariat, will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors.

DATES: Submit comments on or before November 4, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000–0166, American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors, by any of the following methods:

- Regulations.gov: *http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0166, American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0166, American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors" on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Hada Flowers/IC 9000–0166, American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors.

Instructions: Please submit comments only and cite Information Collection 9000–0166, American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Acquisition Policy, at telephone 202–501–1448 or via email to *Curtis.glover@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with Federal Acquisition Regulation (FAR) subpart 4.15 and the applicable clause at FAR 52.204–11, which implements the statutory requirements section 1512(c) of Division A of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act), as a condition of receipt of funds, contractors that receive awards (or modifications to existing awards) funded, in whole or in part by the Recovery Act, shall include the one-time reporting elements for which the burden is imposed on the prime contractor. The information shall include, but is not limited to:

a. Registration at *http://www.FederalReporting.gov;*

b. The award number for both its Government contract and first-tier subcontracts;

c. Program or project title, if any, for its Government contract; (*http://wwww.whitehouse.gov/omb/recovery_faqs_contractors*);

d. A description of the overall purpose and expected outcomes or results of the contract and first-tier subcontracts, including significant deliverables and, if appropriate, units of measure (*http://wwww.whitehouse.gov/omb/recovery_faqs_contractors*);

e. Name of the first-tier subcontractor;

f. Amount of the first-tier subcontract award;

g. Date of the first-tier subcontract award;

h. First-tier subcontract number (The contract number assigned by the prime contractor);

i. First-tier subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable; and

j. Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

B. Annual Reporting Burden

This information collection reflects a downward adjustment from what was published in the **Federal Register** on September 24, 2010, at 75 FR 58389, for the number of respondents required to comply with the requirements of FAR subpart 4.15 and the associated FAR clause at 52.204–11, American Recovery and Reinvestment Act—Reporting Requirements. This change is primarily due to fewer Recovery Act funds available for award.

In Fiscal Year (FY) 2010, the Federal Procurement Data System (FPDS) indicated that there were 33,041 Recovery Act prime contract awards, including modifications (21,767 awarded to small businesses), to 8,896 unique vendors. In FY 2012, FPDS indicates that there were 6,312 Recovery Act prime contract awards, including modifications (3,156 awarded to small businesses), to 2,247 unique vendors. This change represents a decrease of approximately 75 percent from FY 2010 Recovery Act awards. Consequently, it was determined that FY 2012 FPDS data was a sufficient baseline for estimating the number of respondents per year (2,247) that would need to comply with the applicable clause associated with this information collection. The estimate number of responses per respondent is based on an estimated number of unique vendors divided by the average number of respondents. In discussions with subject matter experts, it was determined that an estimated number of responses per respondent of two, rounded down from 2.8, was sufficient to reflect the lower number of Recovery Act funds available for award. Additionally, it is estimated that the burden hours per response is thirty-six minutes (.60), which reflects no change from what was published **Federal Register** on September 24, 2010, at 75 FR 58389. No public comments were received in prior years that have challenged the validity of the Government's estimate.

Respondents: 2,247.
Responses per Respondent: 2.0.
Total Annual Reponses: 4,494.
Hours per Response: .6.
Total Burden Hours: 2,696.

C. Public Comments

Public comments are particularly invited on: Whether this collection of

information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0166, American Recovery and Reinvestment Act—Reporting Requirements—One Time Reporting Requirements for Prime Contractors, in all correspondence.

Dated: August 27, 2013.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2013–21286 Filed 8–30–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-13–13AGS]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7510 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, 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. Written comments should be received within 60 days of this notice.

Proposed Project

Prevention of Child Maltreatment through Policy Change—NEW—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The prevalence and consequences of child maltreatment (CM) make it a public health concern that requires early and effective prevention. Public policies can be critical in shaping every level of the social ecology, including individuals, families, and communities, and thus have the potential to play a key role in the prevention of CM. In order to protect children and youth and build an evidence-base of effective prevention strategies, evaluation of public policies are needed, including those policies currently being implemented. Policies related to family income (e.g., Temporary Assistance to Needy Families (TANF) eligibility and inroads to related services) were identified by CDC through the Division of Violence Prevention's Public Health Leadership Initiative policy analysis as those that are in need of rigorous evaluation.

CDC requests OMB approval for a period of two years in order to perform a data collection, which will provide data for a larger outcome evaluation that seeks to understand if county-administered policy strategies of the TANF program result in lower rates of CM and associated child welfare outcomes (e.g., time to adoption). The proposed data collection will include surveys and semi-structured interviews with state and county-level government employees and partners in Colorado to address three primary aims: (1) To understand how a state policy allowing counties to administer TANF programs with flexibility contributes to county-level adoption of integrated welfare and child welfare service models; (2) to develop and refine an Implementation Index, which will quantify the degree of integration between welfare and child welfare services; and (3) to inform the larger outcome evaluation, which examines whether TANF policies and program supports reduce rates of CM when they are delivered in an integrated welfare and child welfare service model.

Understanding how service integration between TANF and child welfare affects CM may be very important to improving CDC's ability to devise and implement effective population-based prevention strategies.

Approximately 188 Colorado state and county employees and partners form the sample population. Specifically, state- and county-level employees working in welfare and/or child welfare agencies will be invited to complete a brief survey and an hour-long semi-structured interview. This study population includes individuals employed in the following positions: County-Level Child Welfare Workers, State-Level Administrators, County Directors of Human Services, Child Welfare Services and Colorado Works Leadership/Manager, Child Welfare Services and Colorado Works Case Manager, Caseworker, Technician, and Other Client-Serving Staff. An additional 72 individuals employed by Allied Staff (e.g., Housing, Supplemental Nutrition Assistance Program, Medicaid, Child Care) and Partners of Child Welfare and Colorado Works will also be invited to complete an hour-long semi-structured interview. For the survey, 116 project participants will respond to the survey once, where each response requires 15 minutes; 116 (responses total) × 1 (responses per total project period) × 15/60 (hour per response) = 30 total survey burden hours. For the semi-structured interview, 188 project participants will respond to the interview once, where this response requires 188 total semi-structured interview burden hours. The total burden hours for this proposed data collection are 218.

There are no costs to respondents other than their time.

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
County Directors of Human Services	Survey of County TANF and Child Welfare Respondents.	18	1	15/60	5
	Interview of County Director of Human Services.	18	1	1	18
State Level Administrators	Survey of State Level Administrators	8	1	15/60	2
	Interview of State Level Administrator/Field Administrator.	8	1	1	8
Child Welfare/Colorado Works Leadership/Manager.	Survey of County TANF and Child Welfare Respondents.	36	1	15/60	9
	Interview of Child Welfare/Colorado Works Leadership/Manager.	36	1	1	36
Child Welfare Services and Colorado Works Case Manager, Caseworker, Technician, and Other Client-Serving Staff.	Survey of County TANF and Child Welfare Respondents.	54	1	15/60	14
	Interview of Child Welfare and Colorado Works Case Manager, Caseworker, Technician and Other Client-Serving Staff.	54	1	1	54
Allied Staff (e.g., Housing, Supplemental Nutrition Assistance Program, Medicaid, Child Care).	Interview of Allied Staff (e.g., Housing, Supplemental Nutrition Assistance Program, Medicaid, Child Care).	36	1	1	36
Partners of Child Welfare and Colorado Works.	Interview of Partners	36	1	1	36
Total					218

LeRoy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–21325 Filed 8–30–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Alzheimer's Disease Supportive Services Program—Data Reporting Tool

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA), Administration for Community Living (ACL) is announcing the proposed continuation of the collection of information for the Alzheimer's Disease Supportive Services Program. The proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by October 3, 2013.

ADDRESSES: Submit written comments on the collection of information by email to *Jane.Tilly@acl.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Jane Tilly 202.357.3438 or email: *Jane.Tilly@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Alzheimer's Disease Supportive Services Program (ADSSP) is authorized through Sections 398, 399 and 399A of the Public Health Service (PHS) Act, as amended by Public Law 101–557 Home Health Care and Alzheimer's Disease Amendments of 1990. The ADSSP helps state efforts to expand the availability of community-level supportive services for persons with Alzheimer's disease and their caregivers, including underserved populations. In compliance with the PHS Act, ACL revised an ADSSP Data Reporting Tool (ADSSP–DRT) in 2010. The ADSSP–DRT collects information about the delivery of direct services by ADSSP state grantees, as well as basic demographic information about service recipients. This version includes some revisions to the approved 2010 version. The revised version would be in effect beginning 8/31/2013 and thereafter.

The proposed FY2013 ADSSP–DRT can be found on AoA's Web site at: *http://www.aoa.gov/AoARoot/AoA_Programs/HPW/Alz_Grants/docs/ADSSP_DataCollectionReportingForm_proposed.xls.*

ACL estimates the burden of this collection of information as follows:

ANNUAL BURDEN ESTIMATES

Instrument	Type of respondent	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours (annual)
ADSSP Data Reporting Tool	Local Program Site	60	2	5.8	696
ADSSP Data Reporting Tool	State Grantee	30	2	8	480

Estimated Total Annual Burden Hours: 1176.

Dated: August 27, 2013.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2013–21310 Filed 8–30–13; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HRSA's Bureau of Health Professions Advanced Education Nursing Traineeship Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice.

SUMMARY: The Bureau of Health Professions (BHPr) is announcing a change to its Advanced Education Nursing Traineeship (AENT) program. Effective fiscal year (FY) 2014, AENT support for part-time students (trainees) will be limited to those students (trainees) who are enrolled within the last 12 months of study for their program. This change will apply to new part-time students (trainees) and will not affect part-time students (trainees) funded prior to FY 2014, who will continue to be supported throughout their advanced education primary care training. Support for full-time students (trainees) will continue without any changes. This change is being implemented to support part-time students (trainees) nearing graduation, in an effort to expeditiously meet the growing demand for primary care nurse practitioners and nurse midwives.

FOR FURTHER INFORMATION CONTACT: Joan Wasserman, DrPH, RN, Advanced Nursing Education Branch Chief, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 9–61, Rockville, MD 20857, by phone at (301) 443–5688; fax at (301) 443–0791; or email at *JWasserman@HRSA.gov.*

Dated: August 26, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–21343 Filed 8–30–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Single-Case Deviation From Competition Requirements: Maternal and Child Health (MCH) Bureau's Research Network on Pregnancy-Related Care Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA will be issuing a non-competitive program expansion supplement for the MCH Research Network on Pregnancy-related Care program. Approximately $200,000 in supplemental funding will be made available in the form of a cooperative agreement to the American College of Obstetricians and Gynecologists (ACOG), Washington, DC, Grant Number UA6MC19010, during the budget period of September 9, 2013, through August 31, 2014.

The MCH Research Network on Pregnancy-related Care program (UA6MC 19010), CFDA No. 93.110, is authorized by Title V, Social Security Act, Section 501(a)(2); as amended (42 U.S.C. 701).

The MCH Research Network on Pregnancy-related Care (Network) is the only existing national network of practicing obstetrician-gynecologists who have been recruited to participate in survey studies to examine physicians' clinical practice patterns, knowledge base, opinions, and educational needs with respect to maternal health, including pregnancy-related health and women's health across the lifespan. Now in its third year of a 5-year project period, the Network has successfully conducted numerous studies and boasts a very robust dissemination of critical information on its research findings including nearly 30 peer-reviewed publications since 2010. Types of studies conducted by the Network include the following:

- Core longitudinal studies that track physician knowledge and practice over time (e.g., *Preterm birth, Diabetes during pregnancy, Obesity, Nausea and vomiting of pregnancy*);
- Studies based on newly or soon-to-be published ACOG clinical practice guidelines (e.g., *Thyroid disorders during pregnancy, Down syndrome*);
- Studies that assess the maternal-child health workforce (e.g., *Racial and gender differences in residents' perceptions of mentoring, Physician gender and practice satisfaction*); and
- Topical studies to address the needs in the field (e.g., *Oral health during pregnancy, Influenza vaccination during pregnancy*).

SUPPLEMENTARY INFORMATION:

Intended Recipients of the Award: The grantee of record (listed below).

Amount of the Non-Competitive Award: Up to $200,000.

CFDA Number: 93.110.

Current Project Period: 09/01/2010–08/31/2015.

Period of Supplemental Funding: 9/1/2013–8/31/2014.

Authority: Title V, Social Security Act, Section 501(a)(2); as amended (42 U.S.C. 701).

Justification: HRSA is providing supplemental funding for the Network award for the purpose of enhancing the existing Network to maximize its full potential to conduct multi-site research on critical issues affecting pregnancy-related and maternal health across the lifespan. Currently in year 3 of a 5-year project period, the Network is funded at $300,000 total cost per year. A $200,000 program expansion supplement will increase the capacity of network-affiliated practitioners and other affiliates to generate, refine, and implement original research studies involving primary data collection and subject recruitment across a multi-site research network.

Specifically, this supplemental funding will catalyze the development of research and data coordination capacities for the Network and expand the Network's purpose from conducting provider surveys to coordinating office-based research using the existing network infrastructure. This program expansion is a tremendous opportunity to improve the quality of care and reduce costs in the emerging area of outpatient obstetrics research. Furthermore, an office-based practice research network will help accelerate the translation of research to practice.

FOR FURTHER INFORMATION CONTACT: Jessica DiBari, MHS, Division of Research, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 18A–55, Rockville, Maryland 20857; *jdibari@hrsa.gov.*

Grantee/organization name	Grant number	State	FY 2013 Authorized funding level	FY 2013 Estimated supplemental funding
The American College of Obstetricians and Gynecologists	UA6MC19010	DC	$300,000	$200,000

Dated: August 26, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–21342 Filed 8–30–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Careers Opportunity Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of Noncompetitive Program Expansion Supplements to Health Careers Opportunity Program (HCOP) Grantees To Develop or Enhance Educational Pipeline Strategies With Behavioral Health Professions.

SUMMARY: HRSA is issuing non-competitive program expansion supplements to all 17 fiscal year (FY) 2013 HCOP grantees to include interprofessional health educational activities focused on careers in behavioral health, such as a graduate degree in Clinical or Counseling Psychology, Clinical Social Work, and/or Marriage and Family Therapy. This expanded focus could be formed through collaboration with a Behavioral Health Department/School or Program that is within the current HCOP academic institution or accessible within the institution's geographic region. Approximately $1,900,000 will be available for this effort. HCOP grantees currently have the expertise, experience, and infrastructure to quickly and efficiently implement the behavioral health supplemental initiative within their existing educational programming. The program expansion supplements will allow the Bureau of Health Professions to consolidate resources and meet the growing need for and access to skilled and culturally competent behavioral health professionals within a currently existing grant program.

SUPPLEMENTARY INFORMATION:

Intended Recipients of the Award: 17 FY 2013 HCOP awardees, as follows:

Grant No.	Institution name	State	Anticipated FY 2013 supplemental amount
D18HP23034	University of Alabama Birmingham	AL	$111,764
D18HP23007	University of Arizona	AZ	111,764
D18HP10623	University of California, San Diego	CA	111,764
D18HP23028	D'Youville College	NY	111,764
D18HP10617	Marquette University	WI	111,764
D18HP05283	Meharry Medical College	TN	111,764
D18HP23030	Michigan State University	MI	111,764
D18HP10625	University of Michigan-Flint	MI	111,764
D18HP10627	Mount Sinai School of Medicine	NY	111,764
D18HP23032	University of Texas Medical Branch	TX	111,764
D18HP23014	Research Foundation of the State University of New York	NY	111,764
D18HP23023	Howard University	DC	111,764
D18HP23019	St. Vincent Health	IN	111,764
D18HP23031	Northeastern Vermont AHEC	VT	111,764
D18HP10618	University of Minnesota	MN	111,764
D18HP24087	University of Detroit Mercy	MI	111,764
D18HP24088	University of New Mexico Health Sciences Center	NM	111,764

Amount of Award: $111,764 per grantee.

Project Period: September 1, 2013 through August 31, 2014.

CFDA Number: 93.822.

Authority: Title VII, Section 739 of the Public Health Service (PHS) Act, as amended by Section 5402 of the Affordable Care Act.

Justification: A diverse health professions workforce is critical to achieving greater health equity and ensuring access to quality health care services for underrepresented and underserved populations. The increasing diversity of the U.S. population requires a health care workforce that is reflective of the population, knowledgeable, and culturally competent to care for a growing range of health care needs and to serve populations in hard to reach places. HRSA's HCOP grant program serves as a pipeline program by encouraging, cultivating, and supporting students from economically and academically disadvantaged backgrounds to enter health care fields. To date, HCOP has primarily focused on exposure to careers in medicine, dentistry, pharmacy, and allied health. With the growing need for mental health and substance abuse services (behavioral health), there is an opportunity to expand the HCOP focus to include opportunities in the behavioral health professions (i.e., social work, psychology, marriage and family therapy).

FOR FURTHER INFORMATION CONTACT: Tia-Nicole Leak, Ph.D., Division of Public Health and Interdisciplinary Education, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 9C–26, Rockville, Maryland 20857 or email *tleak@hrsa.gov.*

Dated: August 27, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–21339 Filed 8–30–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council on Blood Stem Cell Transplantation; Request for Nominations for Voting Members

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations of qualified candidates to fill expected vacancies on the Advisory Council on Blood Stem Cell Transplantation (ACBSCT).

The ACBSCT was established pursuant to Public Law 109–129 as amended by Public Law 111–264; 42 U.S.C. 274k; Section 379 of the Public Health Service Act. In accordance with Public Law 92–463, the ACBSCT was chartered on December 19, 2006.

DATES: The agency must receive nominations on or before 30 days after date of publication in the **Federal Register**.

ADDRESSES: Nominations should be submitted to the Executive Secretary, ACBSCT, Healthcare Systems Bureau, HRSA, Parklawn Building, Room 12C–06, 5600 Fishers Lane, Rockville, Maryland 20857. Federal Express, Airborne, or UPS mail delivery should be addressed to Executive Secretary, ACBSCT, Healthcare Systems Bureau, HRSA, at the above address. Nominations submitted electronically should be emailed to *PStroup@hrsa.gov* and *PTongele@hrsa.gov*.

FOR FURTHER INFORMATION CONTACT: Patricia A. Stroup, M.B.A., M.P.A., Executive Secretary, ACBSCT, at (301) 443–1127; or email at *PStroup@hrsa.gov*.

SUPPLEMENTARY INFORMATION: The Council was established to implement a statutory requirement of the Stem Cell Therapeutic and Research Act of 2005 (Pub. L. 109–129). The Council is governed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

The ACBSCT advises the Secretary and the Administrator, HRSA, on matters related to the activities of the C.W. Bill Young Cell Transplantation Program and the National Cord Blood Inventory Program.

The ACBSCT shall, as requested by the Secretary, discuss and make recommendations regarding the C.W. Bill Young Cell Transplantation Program (Program). It shall provide a consolidated, comprehensive source of expert, unbiased analysis and recommendations to the Secretary on the latest advances in the science of blood stem cell transplantation. The ACBSCT shall advise, assist, consult, and make recommendations at the request of the Secretary, on broad Program policy in areas such as the necessary size and composition of the adult donor pool available through the Program and the composition of the National Cord Blood Inventory; requirements regarding informed consent for cord blood donation; accreditation requirements for cord blood banks; the scientific factors that define a cord blood unit as high quality; public and professional education to encourage the ethical recruitment of genetically diverse donors and ethical donation practices; criteria for selecting the appropriate blood stem source for transplantation; Program priorities; research priorities; and the scope and design of the Stem Cell Therapeutic Outcomes Database. It also shall, at the request of the Secretary, review and advise on issues relating more broadly to the field of blood stem cell transplantation, such as regulatory policy pertaining to the compatibility of international regulations, and actions that may be taken by the state and federal governments and public and private insurers to increase donation and access to transplantation. The ACBSCT also shall make recommendations regarding research on emerging therapies using cells from bone marrow and cord blood.

The ACBSCT consists of up to 25 members, including the Chair. Members of the ACBSCT shall be chosen to ensure objectivity and balance, and reduce the potential for conflicts of interest. The Secretary shall establish bylaws and procedures to prohibit any member of the ACBSCT who has an employment, governance, or financial affiliation with a donor center, recruitment organization, transplant center, or cord blood bank from participating in any decision that materially affects the center, recruitment organization, transplant center, or cord blood bank; and to limit the number of members of the ACBSCT with any such affiliation.

The members and chair shall be selected by the Secretary from outstanding authorities and representatives of marrow donor centers and marrow transplant centers; representatives of cord blood banks and participating birthing hospitals; recipients of a bone marrow transplant; recipients of a cord blood transplant; persons who require such transplants; family members of such a recipient or family members of a patient who has requested the assistance of the Program in searching for an unrelated donor of bone marrow or cord blood; persons with expertise in bone marrow and cord blood transplantation; persons with expertise in typing, matching, and transplant outcome data analysis; persons with expertise in the social sciences; basic scientists with expertise in the biology of adult stem cells; ethicists; hematology and transfusion medicine researchers with expertise in adult blood stem cells; persons with expertise in cord blood processing; and members of the general public.

In addition, representatives from HRSA's Division of Transplantation, the Department of Defense Marrow Recruitment and Research Program operated by the Department of the Navy, the Food and Drug Administration, the National Institutes of Health, the Centers for Medicare and Medicaid Services, and the Centers for Disease Control and Prevention serve as non-voting ex officio members.

Specifically, HRSA is requesting nominations for voting members of the ACBSCT in these categories: Marrow donor centers and transplant center representatives; cord blood banks and participating hospitals representatives; recipients of cord blood transplant; family members of bone marrow transplant and cord blood transplant recipients or family members of a patient who has requested assistance by the Program in searching for an unrelated donor; persons with expertise in bone marrow or cord blood transplantation; persons with expertise in typing, matching, and transplant outcome data analysis; persons with expertise in social sciences; basic scientists with expertise in the biology of adult stem cells; researchers in hematology and transfusion medicine with expertise in adult blood stem cells; persons with expertise in cord blood processing; and members of the general public. Nominees will be invited to serve a 2 to 6-year term beginning after July 1, 2014.

HHS will consider nominations of all individuals to ensure that the ACBSCT includes the areas of subject matter expertise noted above. Individuals may nominate themselves or other individuals, and professional associations and organizations may nominate one or more qualified persons for membership on the ACBSCT. Nominations shall state that the nominee is willing to serve as a member of the ACBSCT. Potential candidates

will be asked to provide detailed information concerning financial interests, consultancies, research grants, and/or contracts that might be affected by recommendations of the ACBSCT to permit evaluation of possible sources of conflicts of interest. In addition, nominees will be asked to provide detailed information concerning any employment, governance, or financial affiliation with any donor centers, recruitment organizations, transplant centers, and/or cord blood banks.

A nomination package should be sent in as hard copy, email communication, or on compact disc. A nomination package should include the following information for each nominee: (1) A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (i.e., what specific attributes recommend him/her for service in this capacity), and the nominee's field(s) of expertise; (2) a biographical sketch of the nominee and a copy of his/her curriculum vitae; and (3) the name, return address, email address, and daytime telephone number at which the nominator can be contacted.

HHS strives to ensure that the membership of HHS federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that the views of women, all ethnic and racial groups, and people with disabilities are represented on HHS Federal advisory committees. The Department also encourages geographic diversity in the composition of the committee. The Department encourages nominations of qualified candidates from all groups and locations. Appointment to the ACBSCT shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

Dated: August 26, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–21345 Filed 8–30–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Parasites and Fungi.

Date: September 19–20, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Kidney Physiology and Pathophysiology.

Date: September 23, 2013.

Time: 1:00 p.m. to 4:30 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: Martha Garcia, Ph.D., Scientific Reviewer Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2186, Bethesda, MD 20892, 301–435–1243, *garciamc@nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Clinical, Integrative and Molecular Gastroenterology Study Section.

Date: September 30, 2013.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Mushtaq A Khan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: September 30–October 1, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Aftab A Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: August 27, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–21320 Filed 8–30–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Joint Neuroscience Pre-Doctoral Training Program (T32).

Date: September 30, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alfonso R. Latoni, Ph.D., Deputy Chief and Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–402–7702, *Alfonso.Latoni@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: August 27, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–21322 Filed 8–30–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; K23, K24, K25 Research Career Development Awards.

Date: September 26, 2013.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854

Contact Person: Stephanie J Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0291, *stephanie.webb@nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: August 27, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–21319 Filed 8–30–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 Biomedical Imaging and Bioengineering Special Emphasis Panel; R13 Conference Applications Review.

Date: December 4, 2013.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, DEM II, Suite 951, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging, and Bioengineering, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, 301–451–3397, *sukharem@mail.nih.gov.*

Dated: August 27, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–21317 Filed 8–30–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Development of Drugs and Vaccines Against Infectious Diseases.

Date: September 25–26, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Molecular Neurogenetics Study Section.

Date: September 26–27, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Eugene Carstea, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 408–9756, *carsteae@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bacterial Pathogenesis.

Date: September 26–27, 2013.

Time: 8:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–008 Shared Instrumentation: Bioengineering Sciences.

Date: September 26, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ping Fan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–408–9971, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member

Conflicts: Liver and Gastrointestinal Physiology and Pathophysiology.

Date: September 26, 2013.

Time: 1:00 p.m. to 4:30 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: Martha Garcia, Ph.D., Scientific Reviewer Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2186, Bethesda, MD 20892, 301–435–1243, *garciamc@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Somatosensory and Chemosensory Systems Study Section.

Date: October 1–2, 2013.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel and Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: M Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PA12–006: Academic Research Enhancement Award (Parent R15).

Date: October 1, 2013.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: John H Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 267–9270, *newmanjh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vector Biology.

Date: October 1–2, 2013.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; International and Cooperative Projects—1 Study Section.

Date: October 1, 2013.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Hilary D Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 11–220 Program Projects: Fungal Secondary Metabolites.

Date: October 1, 2013.

Time: 12:00 a.m. to 5:00 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: Richard Panniers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Dissemination and Implementation Research in Health.

Date: October 1, 2013.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Rebecca Henry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, 301–435–1717, *henryrr@mail.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Xenobiotic and Nutrient Disposition and Action Study Section.

Date: October 2, 2013.

Time: 8:00 a.m. to 8:00 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: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2172, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Myocardial Ischemia and Metabolism Study Section.

Date: October 2–3, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: October 2–3, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Neuroscience and Ophthalmic Imaging Technologies Study Section.

Date: October 2–3, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, DC, 1515 Rhode Island Avenue NW., Washington, DC 20005.

Contact Person: Yvonne Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7846, Bethesda, MD 20892, 301–379–3793, *bennetty@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biodata Management and Analysis Study Section.

Date: October 2–3, 2013.

Time: 8:00 a.m. to 4:00 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: Mark Caprara, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7844, Bethesda, MD 20892, 301–435–1042, *capraramg@mail.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cardiovascular and Sleep Epidemiology Study Section.

Date: October 2, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Contact Person: Julia Krushkal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, 301–435–1782, *krushkalj@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics B Study Section.

Date: October 2–3, 2013.

Time: 7:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA 94102.

Contact Person: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: August 27, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–21318 Filed 8–30–13; 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 Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: September 23, 2013.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To discuss and provide updates on sleep and circadian research developments and the NIH sleep research plan. Members of the public unable to attend the meeting in person may hear the public portion of all discussion by dialing 1–888–996–4913, access code 3455069, which is a listen-only access code.

Place: National Institutes of Health, Natcher Building, Room D, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Michael J. Twery, Ph.D., Director, National Center on Sleep Disorders Research, Division of Lung Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 10038, Bethesda, MD 20892–7952, 301–435–0199 *twerym@nhlbi.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: August 27, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–21316 Filed 8–30–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the NCI-Frederick Advisory Committee, September 24, 2013, 09:00 a.m. to September 24, 2013, 04:00 p.m., Frederick National Laboratory for Cancer Research, Advanced Technology Research Facility (ATRF), Room E111, 8560 Progress Drive, Frederick, MD 21702 which was published in the **Federal Register** on August 16, 2013, 78 FR 50068.

The meeting notice is amended to change the ending time of the meeting until 05:00 p.m. The meeting is open to the public.

Dated: August 27, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–21321 Filed 8–30–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at 240–276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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) 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 respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: SAMHSA Disaster Technical Assistance Center Training, Webinar, Podcast, and Mobile Application Feedback Forms—New

The Substance Abuse and Mental Health Services Administration (SAMHSA) is requesting approval for a 3-year data collection effort associated with the SAMHSA Disaster Technical Assistance Center Training, Webinar, Podcast, and Mobile Application Feedback Forms—New. The collection includes five data collection instruments—the Training Feedback Form, the Webinar/Podcast Feedback Form, the Mobile Application Feedback Form, the Training Evaluation Follow-Up Interview Guide, and the Webinar Feedback Form Follow-Up Interview Guide. All of the proposed data collection efforts will be used to gather feedback on several training, webinar, and podcast events provided by SAMHSA DTAC throughout the year, as well as feedback on a SAMHSA application for mobile devices. The information will be used to: (1) Enhance SAMHSA DTAC training, webinar, and podcast curricula and content and enhance these resources as feedback is gathered through this data collection effort; and (2) enhance the SAMHSA application for mobile devices.

SAMHSA DTAC will be responsible for administering the data collection instruments and analyzing the data. SAMHSA DTAC will use data from the Training Feedback Form, the Webinar/Podcast Feedback Form, the Training Follow-Up Interview Guide, and the Webinar Feedback Form Follow-Up Interview Guide to inform current and future training, webinar, and podcast activities and to ensure these activities

continue to align with state/territory/tribe and local disaster behavioral health needs. SAMHSA will use data from the Mobile Application Feedback Form to inform updates and enhancements to the SAMHSA application for mobile devices. The components of the data collection are listed and described below, and a summary table of the number of respondents and respondent burden has also been included.

Training Feedback Form and Webinar/Podcast Feedback Form. The Training Feedback Form and the Webinar/Podcast Feedback Form will assess the following: Content, presentation style, and presentation mode; relevance of the information presented; and satisfaction with the information presented. These surveys will be administered to all training and webinar participants immediately following each SAMHSA DTAC training or event, and periodically to those who have viewed podcasts. Six events or podcasts are estimated to be presented and made available each year. For webinars, podcasts, and web-based training events, the survey will be administered online. For those who attend in-person training events, the survey will be administered in person using hard copies of the survey instrument.

Mobile Application Feedback Form. The Mobile Application Feedback Form is designed to elicit feedback on the usefulness of the SAMHSA application for mobile devices, satisfaction with the application, and suggestions for improvements. It will be administered as a link to a web-based survey directly through the application to all users of the SAMHSA application.

Training Feedback Form Follow-Up Interviews and Webinar Feedback Form Follow-Up Interviews. The Training Feedback Form Follow-Up Interviews and Webinar Feedback Form Follow-Up Interviews will be conducted 1 month following participation in a SAMHSA DTAC training or webinar, with a sample of up to 10 percent of event attendees (or five individuals if 10 percent of participants is fewer than five). Data will be collected during one-on-one in-depth telephone interviews. The interviews will gather greater contextual information not available through administration of the respective Feedback Forms. The interviews will examine participants' experiences with the training and webinar and will include: The level to which the event met expectations; memory for information learned during the training and webinar; ability to apply the information to job tasks; suggestions for enhancing SAMHSA DTAC events; and suggestions for future training and webinar topics. The information collected will inform the content and presentation style of future SAMHSA DTAC trainings, webinars, and podcasts and associated materials.

Internet-based technology will be used to collect data via web-based surveys and for data entry and management of all proposed instruments. A 3-year clearance is requested for this project. The average annual respondent burden is estimated below. All proposed instruments will be ongoing data collection efforts. Table 1 presents the estimated annual data collection burden. These estimates reflect the average annual number of respondents, the average annual number of responses, the time required for each response, and the average annual burden in hours. It is estimated that each participant will attend or view no more than an average of two webinar or podcast events each year; participants will be asked to complete the Training Feedback Form or Webinar/Podcast Feedback Form for each event they attend or view. Participants will only be asked to participate in one Training Feedback Form Follow-Up Interview and one Webinar Feedback Form Follow-Up Interview each year.

TABLE 1—ANNUALIZED ESTIMATE OF RESPONDENT BURDEN

Instrument	Number of respondents	Number of responses per respondent	Total number of responses	Hours per response per respondent	Total burden hours	Hourly wage rate [1]	Total cost
Training Feedback Form:							
Advanced Scheduled Event	300	1	300	0.25	75.0	$35	$2,625.00
Quick-turnaround Event	1,200	1	1,200	0.25	300.0	35	10,500.00
Webinar/Podcast Feedback Form:							
Advanced Scheduled Event	750	2	1,500	0.25	375.0	35	13,125.00
Quick-turnaround Event	1,200	1	1,200	0.25	300.0	35	10,500.00
Mobile Application Survey	600	1	600	0.25	150.0	35	5,250.00
Training Feedback Form Follow-Up Interviews	150	1	150	0.50	75.0	35	2,625.00
Webinar Feedback Form Follow-Up Interviews	195	1	195	0.50	97.5	35	3,412.50
Annual Total	4,395		5,145		1,372.5		$48,037.50

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *or* email her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received by November 4, 2013.

Summer King,

Statistician.

[FR Doc. 2013–21341 Filed 8–30–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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) 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 respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Strategic Prevention Framework State Incentive Grant (SPF SIG) Program (OMB No. 0930–0279)—Reinstatement

SAMHSA's Center for Substance Abuse Prevention (CSAP) is responsible for the evaluation instruments of the Strategic Prevention Framework State Incentive Grant (SPF SIG) Program. The program is a major initiative designed to: (1) Prevent the onset and reduce the progression of substance abuse, including childhood and underage drinking; (2) reduce substance abuse related problems; and, (3) build prevention capacity and infrastructure at the State-, territorial-, tribal- and community-levels.

Five steps comprise the SPF:

Step 1: Profile population needs, resources, and readiness to address the problems and gaps in service delivery.

Step 2: Mobilize and/or build capacity to address needs.

Step 3: Develop a comprehensive strategic plan.

Step 4: Implement evidence-based prevention programs, policies, and practices and infrastructure development activities.

Step 5: Monitor process, evaluate effectiveness, sustain effective programs/activities, and improve or replace those that fail.

An evaluation is currently in process with the SPF SIG Cohorts III, IV and V. The primary objective for this evaluation is to determine the impact of SPF SIG on the reduction of substance abuse related problems, on building state prevention capacity and infrastructure, and preventing the onset and reducing the progression of substance abuse, as measured by the SAMHSA National Outcomes Measures (NOMs). Data collected at the grantee- and community-levels will provide information about process and system outcomes at the grantee and community levels as well as context for analyzing participant-level NOMs outcomes.

This notice invites comments for reinstatement to the protocol for the ongoing Cross-site Evaluation of the Strategic Prevention Framework State Incentive Grant (SPF SIG) (OMB No. 0930–0279) which expired on 11/30/12. This revision includes two parts:

1. Submission of the instruments for the cross-site evaluation of the SPF SIG Cohorts IV and V: (a) The two-part Community-Level Instrument (CLI Parts I and II); and (b) the two Grantee-Level Instruments (GLI)—the GLI Infrastructure Instrument and the GLI Implementation Instrument.

2. Calculation of burden estimates for Cohorts IV and V, 24 and 10 grantees, respectively, for the 2-part CLI and the 2 GLIs. Per guidance from the previous OMB submission for the GLI and CLI Instruments (OMB No. 0930–0279), the number of items have been reduced, resulting in a reduced burden.

Grantee-Level Data Collection

Two web-based surveys, GLI Infrastructure Instrument and GLI Implementation Instrument, were developed for assessing grantee-level efforts and progress. These instruments gather information about the infrastructure of the grantee's overall prevention system and collect data regarding the grantee's efforts and progress in implementing the Strategic Prevention Framework 5-step process. The total burden for these instruments has been reduced by deleting items that are no longer necessary as baseline data has already been gathered from all grantees. Information for both surveys will be gathered once, at the end of the three year approval period. The estimated annual burden for grantee-level data collection is displayed below in Table 1.

Community-Level Data Collection

The Community-level Instrument (CLI) is a two part, web-based survey for capturing information about SPF SIG implementation at the community level. Data from this instrument allows CSAP to assess the progress of the communities in their implementation of both the SPF and prevention-related interventions funded under the initiative. Part I of the instrument gathers information on the communities' progress implementing the five SPF SIG steps and efforts taken to ensure cultural competency throughout the SPF SIG process. Subrecipient communities receiving SPF SIG awards will be required to complete Part I of the instrument annually.

Part II captures data on the specific prevention intervention(s) implemented at the community level, and is completed for each prevention intervention strategy implemented during the specified reporting period. Specific questions are tailored to match the type of prevention intervention strategy implemented (e.g., Prevention Education, Community-based Processes, and Environmental). Information collected on each strategy will include date of implementation, numbers of groups and participants served, frequency of activities, and gender, age, race, and ethnicity of population served/affected. Subrecipient communities' partners receiving SPF SIG awards are required to update Part II of the instrument a minimum of every six months.

The estimated annual burden for specific segments of the community-level data collection is displayed in Table 1. The total burden assumes an average of 15 community-level subrecipients per grantee, annual completion of the CLI Part I, a minimum of two instrument updates per year for the CLI Part II, and an average of three distinct prevention intervention strategies implemented by each community during a 6-month period.

Total Estimates of Annualized Hour Burden

Estimates of total and annualized reporting burden for respondents by evaluation cohort are displayed below in Table 1. CSAP is requesting an average annual estimate of: 167.28 hours at the grantee-level and 5,737.5 hours at the community-level. These hours are a reduction in the average annual estimate requested in the previous submission for grantees and communities.

TABLE 1—ESTIMATES OF ANNUALIZED HOUR BURDEN TO RESPONDENTS

Instrument type	Respondent	Number of respondents	Number of responses per respondent	Total number of responses	Burden per response (hrs.)	Total burden (hrs.)
Grantee-Level Burden						
GLI Infrastructure Instrument	Grantee	34	1	34	2.22	75.48
GLI Implementation Instrument	Grantee	34	1	34	1.95	66.30
CLI Part I, 1–20: Community Contact Information—Updates.	Grantee	34	3	102	0.25	25.50
Total Grantee-Level Burden	Grantee	34		170		167.28
Community-Level						
CLI Part I, 21–172: Community SPF Activities—Updates.	Community	510	3	1,530	0.75	1,147.50
CLI Part II—Updates	Community	510	18	9,180	0.50	4,590.00
Total Community-Level Burden	Community	510		10,710		5,737.50

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *or* email her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received by November 4, 2013.

Summer King,

Statistician.

[FR Doc. 2013–21340 Filed 8–30–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0804]

Great Lakes Pilotage Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Committee management; notice of Federal Advisory Committee meeting.

SUMMARY: The Great Lakes Pilotage Advisory Committee (GLPAC) will meet on September 19, 2013, in Washington, DC to discuss and suggest improvements to the Great Lakes Pilotage regulations. The meeting will be open to the public.

DATES: GLPAC will meet on Thursday, September 19, 2013, from 10:00 a.m. to 4:00 p.m. Please note the meeting may close early if the committee completes its business. Written material and requests to make oral presentations should reach us on or before September 17, 2013.

ADDRESSES: This meeting will be held at U.S. Coast Guard Headquarters located at 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593 in conference room 6i10–01–a. All visitors to Coast Guard Headquarters will have to pre-register to be admitted to the building. Please provide your name, telephone number and organization by close of business on September 17, 2013, to the contact person listed in **FOR FURTHER INFORMATION CONTACT** below. Additionally, all visitors to Coast Guard Headquarters must provide identification in the form of government-issued picture identification card for access to the facility. Please allow at least 30 minutes before the planned start of the meeting in order to pass through security.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the "Agenda" section below. Comments must be submitted in writing no later than September 17, 2013, and must be identified by [USCG–2013–0804] and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. To avoid duplication, please use only one of these four methods.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov*, and use "USCG–2013–0804" in the "Search" field and follow instructions on the Web site.

A public comment period of up to one hour will be held during the meeting on September 19, 2013, after the committee completes its work on the agenda given under **SUPPLEMENTARY INFORMATION.** Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the hour allotted, following the last call for comments. Contact the individual listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Commandant (CG–WWM–2), ATTN: Mr. David Dean, GLPAC Alternate Designated Federal Officer (ADFO), U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509; telephone 202–372–1533, fax 202–372–1914, or email at *David.J.Dean@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act (FACA)*, Title 5 United States Code (Pub. L. 92–463). GLPAC was established under the authority of 46 U.S.C. 9307, and makes recommendations to the Secretary of Homeland Security and the Coast Guard on matters relating to Great Lakes pilotage, including review of proposed Great Lakes pilotage regulations and policies.

Further information about GLPAC is available by going to the Web site: *https://www.facadatabase.gov*. Click on the search tab and type "Great Lakes" into the search form. Then select "Great Lakes Pilotage Advisory Committee" from the list.

Agenda

1. Election of Chairman and Vice Chairman to a 2 year term.
2. Review of minutes from July 2013 GLPAC.
3. Proposals from the committee for changes to the ratemaking methodology.
4. Public comment period.
5. Discussion of proposals for changes to the ratemaking methodology.

Dated: August 26, 2013.

Scott J. Smith,

Captain, U.S. Coast Guard, Acting Director, Marine Transportation Systems.

[FR Doc. 2013–21287 Filed 8–30–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0802]

Merchant Marine Personnel Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Merchant Marine Personnel Advisory Committee (MERPAC). This Committee advises the Secretary of the Department of Homeland Security on matters related to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards.

DATES: Applicants should submit a cover letter and resume in time to reach the Alternate Designated Federal Officer (ADFO) on or before November 4, 2013.

ADDRESSES: Applicants should send their cover letter and resume to the following address: Commandant (CG–OES–1), ATTN MERPAC, US Coast Guard Stop 7509, 2703 Martin Luther King Jr Ave SE., Washington, DC 20593–7509; or by faxing (202) 372–1926; or by emailing to *davis.j.breyer@uscg.mil*. This notice is available in our online docket, USCG–2013–0802, at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Davis J. Breyer, ADFO of MERPAC; telephone 202–372–1445 or email at *davis.j.breyer@uscg.mil*.

SUPPLEMENTARY INFORMATION: MERPAC is an advisory committee established under the Secretary's authority in section 871 of The Homeland Security Act of 2002, Title 6, United States Code, section 451. It was established in accordance with and operates under the provisions of the *Federal Advisory Committee Act* (FACA) (Title 5, United States Code, Appendix). MERPAC advises the Secretary of the Department of Homeland Security on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

MERPAC is expected to meet approximately twice a year as called for by its charter, once at or near Coast Guard Headquarters, Washington, DC, and once at a location outside of Washington. It may also meet for extraordinary purposes. Its subcommittees and working groups may also meet to consider specific tasks as required.

We will consider applications for six positions that expire or become vacant on June 1, 2014. To be eligible, you should have experience in one or more of the following areas of expertise: Two positions for marine educators representing the viewpoint of maritime training institutions other than State or Federal Maritime Academies; one position for a member who represents the viewpoint of shipping companies employed in ship operation management; one position for an engineering officer who is licensed as a Chief Engineer any horsepower; one position for a Pilot who represents the viewpoint of merchant marine pilots; and one position for an unlicensed seaman who represents the viewpoint of Able Bodied Seamen.

Registered lobbyists are not eligible to serve on federal advisory committees. Registered lobbyists are lobbyists required to comply with provisions contained in the *Lobbying Disclosure Act of 1995* (Pub. L. 104–65 as amended).

Each MERPAC committee member serves a term of office of up to three years. Members may be considered to serve consecutive terms. All members serve without compensation from the Federal Government; however, upon request, they do receive travel reimbursement and per diem.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or any other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Davis J. Breyer, ADFO of MERPAC by mail, fax, or email according to the instructions in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. Indicate the position you wish to fill and specify your area of expertise, knowledge, and experience that qualifies you to serve on MERPAC. Note that during the vetting process, applicants may be asked to provide date of birth and social security number.

To visit our online docket, go to *http://www.regulations.gov*, enter the docket number for this notice (USCG–2013–0802) in the Search box, and click "Search". Please do not post your resume on this site.

Dated: August 27, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–21291 Filed 8–30–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4135–DR]; [Docket ID FEMA–2013–0001]

Iowa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–4135–DR), dated July 31, 2013, and related determinations.

DATES: *Effective* August 20, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of July 31, 2013.

Audubon and Grundy Counties for Public Assistance. The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–21248 Filed 8–30–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0044, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of identifying and travel experience information by individuals requesting redress through the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (TRIP).

DATES: Send your comments by November 4, 2013.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson at the above address, or by telephone (571) 227–3651.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (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 unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0044; Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they have experienced during their travel screening. These difficulties could include: (1) Denied or delayed boarding; (2) denied or delayed entry into or departure from the United States at a port of entry; or (3) identified for additional (secondary) screening at our Nation's transportation facilities, including airports, seaports, train stations and land borders. The TSA manages the DHS TRIP office on behalf of DHS. To request redress, individuals are asked to provide identifying information as well as details of their travel experience.

The DHS TRIP office serves as a centralized intake office for traveler requests for redress and uses the online Traveler Inquiry Form (TIF) to collect requests for redress. DHS TRIP then passes the information to the relevant DHS component to process the request, as appropriate (e.g., DHS TRIP passes the form to the appropriate DHS office to initiate the Watch List Clearance Procedure). Participating DHS components include the TSA, U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services, Office of Biometric Information Management, Office of Civil Rights and Civil Liberties, and the Privacy Office, along with the U.S. Department of State, Bureau of Consular Affairs, and the U.S. Department of Justice (Terrorist Screening Center). This collection serves to distinguish misidentified individuals from an individual actually on any watch list that DHS uses, and, where appropriate, this program helps streamline and expedite future check-in or border crossing experiences.

DHS estimates completing the form, and gathering and submitting the information will take approximately one hour. The annual respondent population was derived from data contained within the DHS case management database and reflects the actual number of respondents for the most recent calendar year. Thus, the

total estimated annual number of burden hours for passengers seeking redress, based on 21,670 annual respondents, is 21,670 hours (21,670 × 1).

Dated: August 27, 2013.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2013–21391 Filed 8–30–13; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–81]

30-Day Notice of Proposed Information Collection: Disaster Recovery Grant Reporting System

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: October 3, 2013.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 26, 2013.

A. Overview of Information Collection

Title of Information Collection: Disaster Recovery Grant Reporting System.

OMB Approval Number: 2506–0165.

Type of Request: Revision of a currently approved collection.

Form Number: SF–424—Application for Federal Assistance.

Description of the need for the information and proposed use: The Disaster Recovery Grant Reporting (DRGR) System is a grants management system used by the Office of Community Planning and Development to monitor special appropriation grants under the Community Development Block Grant program. This collection pertains to Community Development Block Grant Disaster Recovery (CDBG–DR) and Neighborhood Stabilization Program (NSP) grant appropriations. The CDBG program is authorized under Title I of the Housing and Community Development Act of 1974, as amended. Following major disasters, Congress appropriates supplemental CDBG funds for disaster recovery. According to Section 104(e)(1) of the Housing and Community Development Act of 1974, HUD is responsible for reviewing grantees' compliance with applicable requirements and their continuing capacity to carry out their programs. Grant funds are made available to states and units of general local government, Indian tribes, and insular areas, unless provided otherwise by supplemental appropriations statute, based on their unmet disaster recovery needs.

Estimated Number of Respondents: Community Development Block Grant Disaster Recovery (CDBG–DR) Grants: The system has approximately 72 open CDBG disaster recovery grants in DRGR. HUD estimates an additional 40 grants as a result of the recent supplemental appropriation for Hurricane Sandy relief. One-time only submissions: The onetime only pre- and post-award submissions for the estimated 40 new DRSI grants resulting from Hurricane Sandy include standard forms, DRGR Action Plan, and required financial control documentation. Total hours are estimated at 505 at a cost of $12,164. Recurring submissions: Recurring submissions include quarterly progress reports and voucher submissions. For average-sized grants, the Department estimates 13 minutes needed per voucher. CDBG–DR grantees process approximately 19 vouchers per year. This requires a record keeping and reporting burden of approximately 4 hours per grantee, per year. Larger CDBG–DR grantees take approximately 44 minutes for each voucher and submit an average of 146 vouchers per year, resulting in approximately 106 burden hours per year, per grantee. Therefore, all CDBG–DR grantees collectively spend an estimated 2,721 hours submitting vouchers in the DRGR system for a total estimated annual voucher submission cost of $65,575. Average-sized grantees spend an estimated 9 hours on each QPR, for a total of 3,240 hours. Large grantees spend an estimated 57 hours per QPR for a total of 5,016 hours. Therefore, all grantees collectively spend an estimated 8,256 hours per year submitting QPR data in DRGR. Total annual QPR submissions cost an estimated $198,970. Grants: For the 577 active NSP grants in the DRGR system, the Department estimates 11 minutes per voucher Neighborhood Stabilization Program submission. NSP grantees process approximately 34 vouchers per year. This requires a record keeping and reporting burden of approximately 3,899 hours for an annual voucher submission cost of $93,970. NSP grantees spend an estimated 4 hours per QPR submission, for a total of 9,232 hours for a total annual QPR submission costs $222,491. Neighborhood Stabilization Program 3—Technical Assistance Grants: The DRGR system currently has 10 open NSP3–TA grants. Historical data on voucher and QPR submissions for technical assistance grants were extremely limited at the time this collection was being assembled. Therefore, the times used to calculate NSP grant cost burden will be applied to NSP3–TA grant cost burden. For 10 average-sized grants, the Department estimates 11 minutes per voucher. Grantees process approximately 38 vouchers per year. Total burden hours for all grantees over the course of the year is estimated at 380, for a total annual submission cost of $1,648. 10 average-sized grantees spend approximately 4 hours submitting each QPR, for a total of 160 hours over the course of a year. Total annual QPR submission costs approximately $3,856.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 23, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–21353 Filed 8–30–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2013–N178; FXES11130600000D2–123–FF06E00000]

Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following application to conduct certain activities with endangered or threatened species. With some exceptions, the Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please send your written comments by October 3, 2013.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. Alternatively, you may use one of the following methods to request hard copies or a CD–ROM of the documents. Please specify the permit you are interested in by number (e.g., Permit No. TE–XXXXXX).

- *Email: permitsR6ES@fws.gov.* Please refer to the respective permit number (e.g., Permit No. TE–XXXXXX) in the subject line of the message.
- *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486–DFC, Denver, CO 80225.
- *In-Person Drop-off, Viewing, or Pickup:* Call (303) 236–4212 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Permit Coordinator, Ecological Services, (303) 236–4212 (phone); *permitsR6ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, and Federal agencies and the public to comment on the following application. Documents and other information the applicant has submitted with this application is available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Application Number: TE13024B–0

Applicant: Bureau of Land Management, San Luis Valley Field Office, Saguache, CO.

The applicant requests a permit to conduct presence/absence surveys through trap (take) and release of the Southwestern willow flycatcher (*Empidonax traillii extimus*) for the purpose of enhancing the species' survival.

National Environmental Policy Act

In compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, 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.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: August 26, 2013.

Michael G. Thabault,

Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2013–21326 Filed 8–30–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTC 00900.L16100000.DP0000]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Dakotas Resource Advisory Council (RAC) will meet as indicated below.

DATES: The next regular meeting of the Dakotas RAC will be held on September 25, 2013 in Bowman, North Dakota. The meeting will start at 9:00 a.m. and adjourn at approximately 4:30 p.m.

ADDRESSES: Bowman City Offices, 101 First Street Northeast, Bowman, North Dakota.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City,

Montana, 59301; (406) 233–2831; *mark_jacobsen@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior through the BLM on a variety of planning and management issues associated with public land management in Montana. At this meeting, topics will include: North Dakota and South Dakota Field Office manager updates, Resource Management Plan updates, North Dakota Resource Management Plan Greater Sage-Grouse Amendment updates, council member briefings and other issues that the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Dated: August 23, 2013.

Diane M. Friez,

Dakotas District Manager, Eastern Montana.

[FR Doc. 2013–21328 Filed 8–30–13; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–LACL–DTS–13687; PPAKAKROR4; PPMPRLE1Y.LS0000]

Lake Clark National Park Subsistence Resource Commission; Meetings

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: As required by the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), the National Park Service (NPS) is hereby giving notice that the Lake Clark National Park Subsistence Resource Commission (SRC) will hold meetings to develop and continue work on NPS subsistence program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487.

Lake Clark National Park SRC Meeting Date and Location: The Lake Clark National Park SRC will meet from 12:30 p.m. to 5:00 p.m. or until business is completed on Thursday, October 3, 2013, at the Nondalton Community Hall in Nondalton, AK. For more detailed information regarding this meeting, contact Designated Federal Official Margaret Goodro, Superintendent, at (907) 644–3626; or Mary McBurney, Subsistence Manager at (907) 235–7891, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Lake Clark National Park SRC membership, contact the Superintendent at 240 W. 5th Avenue, Suite 236, Anchorage, AK 99501 or visit the park Web site at: *http://www.nps.gov/lacl/contacts.htm.*

SRC Proposed Meeting Agenda

The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome and Introduction
3. Review and Adoption of Agenda
4. Approval of Minutes
5. Welcome by Local Community
6. Superintendent's Welcome and Review of the Commission Purpose
7. Commission Membership Status
8. SRC Chair and Members' Reports
9. Superintendent's Report
10. Old Business
11. New business
12. Federal Subsistence Board Update
13. Alaska Boards of Fish and Game Update
14. National Park Service Reports
    a. Ranger Update
    b. Resource Management Update
    c. Subsistence Manager's Report
15. Public and Other Agency Comments
16. Work Session
17. Set Tentative Date and Location for Next SRC Meeting
18. Adjourn Meeting

SRC meeting locations and dates may change based on inclement weather or exceptional circumstances. If the meeting date and location are changed, the Superintendent will issue a press release and use local newspapers and radio stations to announce the meeting.

SUPPLEMENTARY INFORMATION: This meeting is open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. The meeting will be recorded and meeting minutes will be available upon request from the Park Superintendent for public inspection approximately six weeks after the meeting. Before including your address, telephone 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: August 26, 2013.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2013–21314 Filed 8–30–13; 8:45 am]

BILLING CODE 4312–EF–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1124 and 1125 (Review)]

Electrolytic Manganese Dioxide From Australia and China; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on electrolytic manganese dioxide from Australia and China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is October 3, 2013. Comments on the adequacy of responses may be filed with the Commission by November 18, 2013. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207,

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 13–5–294, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* September 3, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On October 7, 2008, the Department of Commerce issued antidumping duty orders on imports of electrolytic manganese dioxide from Australia and China (73 FR 58537–58539). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Australia and China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission defined a single *Domestic Like Product* as electrolytic manganese dioxide coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all domestic producers of electrolytic manganese dioxide.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is October 7, 2008.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews 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 the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2013. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 18, 2013. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov*. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you

are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2012, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment

and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country(ies)* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country(ies)*, and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: August 27, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–21306 Filed 8–30–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1123 (Review)]

Steel Wire Garment Hangers From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on steel wire garment hangers from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is October 3, 2013. Comments on the adequacy of responses may be filed with the Commission by November 18, 2013. 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:* September 3, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 October 6, 2008, the Department of Commerce issued an antidumping duty order on imports of steel wire garment hangers from China (73 FR 58111). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined a single *Domestic Like Product* comprised of all the various types of steel wire garment hangers, co-extensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined a single *Domestic Industry* consisting of all domestic producers of steel wire garment hangers.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is October 6, 2008.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

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

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 13–5–295, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. 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.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2013. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is November 18, 2013. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov*. Also, 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 APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the

following information on your firm's operations on that product during calendar year 2012, except as noted (report quantity data in number of hangers and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in number of hangers and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in number of hangers and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: August 27, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–21305 Filed 8–30–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–891]

Certain Laundry and Household Cleaning Products and Related Packaging; Institution of Investigation; Correction

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 25, 2013, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of The Clorox Company. A supplement to the complaint was filed on August 15, 2013. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laundry and household cleaning products and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 251,292 ("the '292 trademark"); 290,449 ("the '449 trademark"); 1,391,304 ("the '304 trademark"); 1,877,353 ("the '353 trademark"); 2,072,730 ("the '730 trademark"); 2,290,310 ("the '310 trademark"); 2,358,705 ("the '705 trademark"); 2,531,814 ("the '814 trademark"); 2,692,790 ("the '790 trademark"); 3,949,040 ("the '040

trademark"); 2,798,766 ("the '766 trademark"); and 1,771,020 ("the '020 trademark"); and that an industry in the United States exists as required by subsection (a)(2) of section 337. The complaint further alleges violations of section 337 based upon trademark dilution, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 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*.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2013).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 22, 2013, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain laundry and household cleaning products and packaging thereof by reason of infringement of one or more of the '292; '449; '304; '353; '730; '310; '705; '814; '790; '040; '766; and '020 trademarks, and whether an industry in the United States exists as required by subsection (a)(2) of section 337; and

(b) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain laundry and household cleaning products and packaging thereof by reason of trademark dilution, the threat or effect of which is to destroy or substantially injure an industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

The Clorox Company, 1221 Broadway, Oakland, CA 94612.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Industrias Alen, S.A. de C.V., Blvd. Diaz Ordaz No. 1000, Col. Los Trevino, Sta. Catarina, N.L., Mexico.

Alen USA, LLC, 9326 Baythorne Drive, Houston, TX 77041.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: August 27, 2013.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–21304 Filed 8–30–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Agency Information Collection Activities; New Collection: Certification of Compliance With the Confidentiality and Privacy Provisions of the Violence Against Women Act, as Amended

ACTION: 60-Day Notice.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Comments are encouraged and will be accepted for "sixty days" until September 3, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please Cathy Poston, Office on Violence Against Women, at 202–514–5430 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Certification of Compliance with the Confidentiality and Privacy Provisions of the Violence Against Women Act, as Amended.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The affected public includes applicants to OVW grant programs authorized under the Violence Against Women Act of 1994 and reauthorized and amended by the Violence Against Women Act of 2000, the Violence Against Women Act of 2005 and the Violence Against Women Act of 2013. These include States, territories, Tribes or units of local government; State, territorial, tribal or unit of local governmental entities; institutions of higher education including colleges and universities; tribal organizations; Federal, State, tribal, territorial or local courts or court-based programs; State sexual assault coalitions, State domestic violence coalitions; territorial domestic violence or sexual assault coalitions; tribal coalition; tribal organizations; community-based organizations and non-profit, nongovernmental organizations.

Under section 40002(b)(2) of the Violence Against Women Act, as amended (42 U.S.C. 13925(b)(2)), grantees and subgrantees with funding from OVW are required to meet the specific terms with regard to nondisclosure of confidential or private information and to document their compliance. By signature on certification form, applicants for grants from OVW are agreeing that, if awarded funds, they will comply with this provision, and will mandate that subgrantees, if any, comply with this provision, and will create and maintain documentation of compliance, such as policies and procedures for release of victim information, and will mandate that subgrantees, if any, will do so as well.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that information will be collect annually from the approximately 1800 respondents (applicants to the OVW grant programs) less than one hour to complete a Certification of Compliance with the Confidentiality and Privacy Provisions of the Violence Against Women Act, as Amended.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the Certification is less than 1800 hours. If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 1407–B, Washington, DC 20530.

Dated: August 28, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–21375 Filed 8–30–13; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

Notice is hereby given that on August 27, 2013, a proposed consent decree ("proposed Decree") in *United States* v. *American Gage & Machine Co., Size Control Division, et al.*, C.A. No. 1:11–cv–04791, was lodged with the United States District Court for the Northern District of Illinois.

In this action under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a) ("CERCLA"), the United States sought to recover response costs incurred or to be incurred by the United States as a result of releases and threatened releases of hazardous substances from the U.S. Scrap Site, an abandoned hazardous waste disposal and drum recycling facility located near 123rd Street and Cottage Grove Avenue in Chicago, Cooke County, Illinois. The proposed Decree requires the Settling Defendants to pay $1.71 million to the United States in reimbursement of past response costs.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Deputy Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *American Gage & Machine Co., Size Control Division, et al.*, D.J. Ref. No. 90–11–3–20/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Deputy Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Chief Management, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–21292 Filed 8–30–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on August 1, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the changes to its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have been added as parties to this venture: Cableuropa, S.A.U. ("ONO"), Madrid, SPAIN; Com Hem AB, Stockholm, SWEDEN; Get AS, Oslo, NORWAY; Jupiter Telecommunications Co., Ltd., Tokyo, JAPAN; Kabel Deutschland Vertrieb und Services GmbH, Munich, GERMANY; LIWEST Kabelmedien GmbH, Linz, AUSTRIA; PT Link Net, Jakarta, INDONESIA; Shenzhen Topway Video Communication Co., Ltd., Shenzhen, Guangdong, PEOPLE'S REPUBLIC OF CHINA; TDC A/S ("YouSee"), Copenhagen, DENMARK; Tele Columbus GmbH, Berlin, GERMANY; WASU Digital TV Media Group Co., Ltd., Hangzhou, Zhejiang, PEOPLE'S REPUBLIC OF CHINA; Ziggo B.V., Utrecht, NETHERLANDS; and ZON TV Cabo Portugal, S.A., Lisbon, PORTUGAL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification was filed with the Department on July 9, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 15, 2013 (78 FR 49770).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–21312 Filed 8–30–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employment Information Form

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Wage and Hour Division (WHD) sponsored information collection request (ICR) titled, "Employment Information Form," to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before October 3, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201303-1235-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–WHD, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Information Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: WHD staff use the Employment Information Form, Form WH–3, as a guide for recording information complainants (e.g., current and former employees, unions, and competitor employers) provide about alleged violations of agency-administered labor standards. Complainants generally provide the information requested on the form to WHD staff over the telephone or in person. WHD staff use the information to determine whether the agency has jurisdiction to investigate the alleged violation(s). When the WHD schedules a complaint-based investigation, the agency makes the completed Form WH–3 part of the investigation case file. Where the information provided does not support a potential WHD enforcement action, complainants are advised and referred to the appropriate agency for further assistance.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1235–0021.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. It should also be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 17, 2013 (78 FR 22912).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register.** In order to help ensure appropriate

consideration, comments should mention OMB Control Number 1235–0021. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–WHD.

Title of Collection: Employment Information Form.

OMB Control Number: 1235–0021.

Affected Public: Individuals or households and private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 35,000.

Total Estimated Number of Responses: 35,000.

Total Estimated Annual Burden Hours: 11,667.

Total Estimated Annual Other Costs Burden: $0.

Dated: August 22, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–21284 Filed 8–30–13; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0089]

Proposed Information Collection; Safety Defects; Examination, Correction and Records, (Pertains to Metal and Nonmetal (M/NM) Surface and Underground Mines)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested 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. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed information collection for updating Safety Defects; Examination, Correction and Records.

DATES: All comments must be postmarked or received by midnight Eastern Standard Time on November 4, 2013.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number [MSHA–2013–0026].
- *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Deputy Director, Office of Standards, Regulations, and Variances, MSHA, at *McConnell.Sheila.A@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners.

Compressed-air receivers and other unfired pressure vessels must be inspected by inspectors holding a valid National Board Commission and in accordance with the applicable chapters of the National Board Inspection Code, a Manual for Boiler and Pressure Vessels Inspectors, 1979. Safety defects found on compressed-air receivers and other unfired pressure vessels have caused injuries and fatalities in the mining industry.

Records of inspections must be kept in accordance with the requirements of the National Board Inspection Code and the records must be made available to the Secretary or an authorized representative.

Fired pressure vessels (boilers) must be equipped with water level gauges, pressure gauges, automatic pressure-relief valves, blowdown piping and other safety devices approved by the American Society of Mechanical Engineers (ASME) to protect against hazards from overpressure, flameouts, fuel interruptions and low water level.

Records of inspection and repairs must be retained by the mine operator in accordance with the requirements of the ASME Boiler and Pressure Vessel Code, 1977, and the National Board Inspection Code (progressive records—no limit on retention time) and shall be made available to the Secretary or an authorized representative.

Operators must inspect equipment, machinery, and tools that are to be used during a shift for safety defects before the equipment is placed in operation. Defects affecting safety are required to be corrected in a timely manner. In instances where the defect makes continued operation of the equipment hazardous to persons, the equipment must be removed from service, tagged to identify that it is out of use, and repaired before use is resumed.

Safety defects on self-propelled mobile equipment account for many injuries and fatalities in the mining industry. Inspection of this equipment prior to use is required to ensure safe operation. The equipment operator is required to make a visual and operational check of the various primary operating systems that affect safety, such as brakes, lights, horn, seatbelts, tires, steering, back-up alarm, windshield, cab safety glass, rear and side view mirrors, and other safety and health related items.

Any defects found are required to be either corrected immediately, or reported to and recorded by the mine operator prior to the timely correction. A record is not required if the defect is corrected immediately, i.e. a defect that the operator can fix without a mechanic such as a light bulb that needs turned tighter. The precise format in which the record is kept is left to the discretion of the mine operator. Reports of uncorrected defects are required to be recorded by the mine operator and kept at the mine office from the date the defects are recorded, until the defects are corrected.

A competent person designated by the operator must examine each working place at least once each shift for

conditions which may adversely affect safety or health. A record of such examinations must be kept by the operator for a period of one year and must be made available for review by the Secretary or an authorized representative.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of the MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This information collection request is available on MSHA's Web site listed in order of OMB number at *http://www.msha.gov/regs/fedreg/informationcollection/informationcollection.asp*. The information collection request will be available on MSHA's Web site for 60 days after the publication date of this notice, and on *http://www.regulations.gov*. Because comments will not be edited to remove any identifying or contact information, MSHA cautions the commenter against including any information in the submission that should not be publicly disclosed.

The public may also examine publicly available documents at MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington VA 22209–3939 by signing in at the receptionist's desk on the 21st floor.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains notification and recordkeeping provisions for the Proposed Information Collection Request Submitted for Public Comment and Recommendations; Safety Defects; Examination, Correction and Records, 30 CFR 56/57.14100, 56/57.13015, 56/57.13030, and 56/57.18002. MSHA does not intend to publish the results from this information collection and is not seeking approval to not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Safety Defects; Examination, Correction and Records, 30 CFR 56/57.14100, 56/57.13015, 56/57.13030, and 56/57.18002 (Pertains to metal and nonmetal (M/NM) surface and underground mines).

OMB Number: 1219–0089.

Affected Public: Business or other for-profit.

Total Number of Respondents: 12,375.

Frequency: On occasion.

Total Number of Responses: 10,368,771.

Total Burden Hours: 1,145,141 hours.

Total Annual Respondent or Recordkeeper Cost Burden: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 28th, 2013.

George F. Triebsch,

Certifying Officer.

[FR Doc. 2013–21360 Filed 8–30–13; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0124]

Proposed Information Collection; Health Standards for Diesel Particulate Matter Exposure (Underground Coal Mines)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested 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. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for Health Standards for Diesel Particulate Matter Exposure (Underground Coal Mines) in 30 CFR 72.510 and 72.520.

DATES: All comments must be postmarked or received by midnight Eastern Standard Time on November 4, 2013.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- Federal E-Rulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments for docket number [MSHA–2013–0027].
- *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Deputy Director, Office of Standards, Regulations, and Variances, MSHA, at *McConnell.Sheila.A@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 101(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), the Secretary of Labor shall develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines. In addition, Section 103(h) of the Mine Act mandates that mine operators keep any records and make any reports that are reasonably necessary for the Mine Safety and Health Administration to perform its duties under the Mine Act.

MSHA established standards and regulations for diesel-powered equipment in underground coal mines that provide additional important protection for coal miners who work on and around diesel-powered equipment. The standards were designed to reduce the risks to underground coal miners of serious health hazards that are

associated with exposure to high concentrations of diesel particulate matter. The standards contain information collection requirements for underground coal mine operators in 72.510(a) & (b), 72.520(a) & (b).

Section 72.510(a) requires underground coal mine operators to provide annual training to all miners who may be exposed to diesel emissions. The training must include health risks associated with exposure to diesel particulate matter; methods used in the mine to control diesel particulate concentrations; identification of the personnel responsible for maintaining those controls; and actions miners must take to ensure controls operate as intended.

Section 72.510(b) requires underground coal mine operators to keep a record of the training for one year.

Section 72.520(a) and (b) requires underground coal mine operators to maintain an inventory of diesel powered equipment units together with a list of information about any unit's emission control or filtration system. The list must be updated within 7 calendar days of any change.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of the MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This information collection request is available on MSHA's Web site listed in order of OMB number at *http://www.msha.gov/regs/fedreg/informationcollection/informationcollection.asp.* The information collection request will be available on MSHA's Web site for 60 days after the publication date of this notice, and on *http://www.regulations.gov.* Because comments will not be edited to remove any identifying or contact information, MSHA cautions the commenter against including any information in the submission that should not be publicly disclosed.

The public may also examine publicly available documents at MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington VA 22209–3939 by signing in at the receptionist's desk on the 21st floor.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains notification and recordkeeping provisions for the Proposed Information Collection Request Submitted for Public Comment and Recommendations; Health Standards for Diesel Particulate Matter Exposure (Underground Coal Mines) 30 CFR 72.510 and 72.520. MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified and this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Diesel Particulate Matter Exposure (Underground Coal. Mines) 30 CFR 72.510 and 72.520.

OMB Number: 1219–0124.

Affected Public: Business or other for-profit.

Total Number of Respondents: 206.

Frequency: On occasion.

Total Number of Responses: 53,631.

Total Burden Hours: 703 hours.

Total Annual Respondent or Recordkeeper Cost Burden: $9.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 28th, 2013.

George F. Triebsch,

Certifying Officer.

[FR Doc. 2013–21361 Filed 8–30–13; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0201]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 9, 2013, to August 21, 2013. The last biweekly notice was published on August 20, 2013 (78 FR 51219).

ADDRESSES: You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0201. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN, 06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0201 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0201.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. Documents may be viewed in ADAMS by performing a search on the document date and docket number.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0201 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), 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; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the basis for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include

sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's 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 information (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's guidance available on the NRC's 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's 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 to *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is

available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Exelon Generation Company (EGC), LLC, Docket Nos. 50–373, and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: October 15, 2012, and August 12, 2013.

Description of amendment request: The proposed amendments would remove License Conditions which are no longer necessary to address an interim configuration of the LaSalle County Station (LSCS), Unit 2, spent fuel pool prior to completing installation of NETCO–SNAP–IN® inserts. By letter dated August 12, 2013, EGC provided additional information and expanded the scope of the application as originally noticed. The August 12, 2013, letter proposed to clarify language in the LSCS, Units 1 and 2, Technical Specifications (TS) applicable to the design features for TS 4.3, 'Fuel Storage.' The proposed amendment was initially published in the **Federal Register** Biweekly notice on April 2, 2013 (78 FR 19751).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided on August 12, 2013, its revised analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change removes License Conditions within the LSCS Unit 2 Operating License related to interim configurations of the SFP during the installation of the NETCO–SNAP–IN® inserts and the required completion date for installation. The proposed change also revises TS Section 4.3.1 to clarify that for the Unit 2 SFP, spent fuel shall only be stored in storage rack cells containing a neutron absorbing rack insert. All changes proposed by EGC in this license amendment request are administrative in nature because they remove License Conditions that have either been satisfied or that are no longer applicable, and the revision to TS Section 4.3.1 ensures spent fuel is stored only in cells that contain inserts. There are no physical changes to the facilities, nor any changes to the station operating procedures, limiting conditions for operation, or limiting safety system settings.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change removes License Conditions within the LSCS Unit 2 Operating License related to interim configurations of the SFP during the installation of the NETCO–SNAP–IN® inserts and the required completion date for installation. The proposed change also revises TS Section 4.3.1 to clarify that for the Unit 2 SFP, spent fuel shall only be stored in storage rack cells containing a neutron absorbing rack insert. There are no changes to the SFP criticality analysis associated with the proposed change. No physical changes to the plant are proposed, and there are no changes to the manner in which the plant is operated. Rather, the proposed change is administrative because it involves removing License Conditions that have either been satisfied or that are no longer applicable, and the revision to TS Section 4.3.1 ensures spent fuel is stored only in cells that contain inserts.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change removes License Conditions within the LSCS Unit 2 Operating License related to interim configurations of the SFP during the installation of the NETCO–SNAP–IN® inserts and the required completion date for installation. The proposed change also revises TS Section 4.3.1 to clarify that for the Unit 2 SFP, spent fuel shall only be stored in storage rack cells containing a neutron absorbing rack insert. Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in Technical Specifications. The proposed change does not alter these established safety margins. The proposed change does not alter the criticality analysis for the SFP and does not affect the SFP criticality safety margin. The proposed change is administrative because it involves removing License Conditions that have either been satisfied or that are no longer applicable, and the revision to TS Section 4.3.1 ensures spent fuel is stored only in cells that contain inserts.

Therefore, the proposed change 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 requested amendments involve no significant hazards consideration.

Attorney for licensee: Ms. Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

Acting NRC Branch Chief: Jeremy S. Bowen.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: June 10, 2013.

Description of amendment request: The proposed amendment revises Technical Specification (TS) Surveillance Requirements (SR) 3.8.4.2 and 3.8.4.5. The proposed change would resolve a non-cited violation (NCV) that was documented in an NRC's Inspection Report. Specifically, the NRC identified an NCV for the failure to verify that safety-related batteries would remain operable if all the inter-cell and terminal connections were at the maximum resistance value allowed by SR 3.8.4.2 and SR 3.8.4.5 (i.e., 150 micro-ohms).

The proposed change maintains the existing resistance limit for inter-cell and terminal connections, and adds new acceptance criteria for total battery connection resistance to ensure that the safety-related batteries can perform their specified safety function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The revisions of SR 3.8.4.2 and SR 3.8.4.5 to add a battery connector resistance acceptance criterion will not challenge the ability of the safety-related batteries to perform their safety function. The total battery connection resistance is a parameter that is representative of overall battery performance, and ensures that the safety-related batteries remain capable of performing their specified safety function. Appropriate monitoring and maintenance will continue to be performed on the safety-related batteries. In addition, the safety-related batteries are within the scope of 10 CFR 50.65, "Requirements for monitoring the effectiveness of maintenance at nuclear power plants," which will ensure the control of maintenance activities associated with this equipment.

Current TS requirements will not be altered and will continue to require that the equipment be regularly monitored and tested. Since the proposed change does not alter the manner in which the batteries are operated, there is no significant impact on reactor operation.

The proposed change does not involve a physical change to the batteries, nor does it change the safety function of the batteries. The DC power system/batteries will retain adequate independency, redundancy, capacity, and testability to permit the functioning required of the engineered safety features. The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident operating conditions and no changes to existing structures, systems, or components.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes revising SR 3.8.4.2 and SR 3.8.4.5 to add an additional acceptance criterion for battery connector resistance is an increase in conservatism, without a change in system testing methods, operation, or control. Safety-related batteries installed in the plant will be required to meet criteria more restrictive and conservative than current acceptance criteria and standards. The proposed change does not affect the manner in which the batteries are tested and maintained; therefore, there are no new failure mechanisms for the system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the setpoints for the actuation of equipment relied upon to respond to an event. The proposed change does not modify the safety limits or setpoints at which protective actions are initiated. The new acceptance criterion is more restrictive than the existing acceptance criteria for inter-cell and terminal connection resistance, and the proposed change ensures the availability and operability of safety-related battery operability and availability.

Therefore, the proposed change 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 requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

Acting NRC Branch Chief: Jeremy Bowen.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: July 5, 2013.

Description of amendment request: The proposed amendment includes supporting changes to NMP2 Technical Specification (TS) 3.1.7, "Standby Liquid Control (SLC) System," to increase the isotopic enrichment of boron-10 in the sodium pentaborate solution utilized in the SLC System and decrease the SLC System tank volume. The following are the proposed changes to the NMP2 TS 3.1.7, "Standby Liquid Control (SLC) System":

- Revise the acceptance criterion in SR 3.1.7.10 by increasing the sodium pentaborate boron-10 enrichment requirement from ≥ 25 atom percent to ≥ 92 atom percent, and make a corresponding change in TS Figure 3.1.7–1, "Sodium Pentaborate Solution Volume/Concentration Requirements."
- Revise TS Figure 3.1.7–1 to account for the decrease in the minimum volume of the SLC system tank. At a sodium pentaborate concentration of 13.6% the minimum volume changes from 4,558.6 gallons to 1,600 gallons. At a sodium pentaborate concentration of 14.4%, the minimum volume changes from 4,288 gallons to 1,530 gallons.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The SLC System is used to mitigate the consequences of an Anticipated Transient Without SCRAM (ATWS) special event and is used to limit the radiological dose during a Loss of Coolant Accident (LOCA). The proposed changes do not affect the capability of the SLC System to perform these two functions in accordance with the assumptions of the associated analyses.

A SLC System failure is not a precursor of any previously evaluated accident in the NMP2 Updated Safety Analysis Report (USAR). Consequently there is no change in the probability of an accident previously evaluated.

The current ATWS analysis is not adversely affected by the proposed changes because the reactivity insertion rate would increase by a factor greater than 3 and the amount of injected boron-10 is not reduced. The ability of the SLC System to mitigate radiological dose in the event of a LOCA is not affected by these changes.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Structures, systems and components (SSCs) previously required for the mitigation of a transient remain capable of fulfilling their intended design functions. The proposed changes do not adversely affect safety-related SSCs and do not challenge the performance or integrity of any safety-related SSC. The physical changes to the SLC System are limited to the increase in the boron-10 enrichment of the sodium pentaborate solution in the SLC System storage tank, the corresponding decrease in the net sodium pentaborate solution volume requirement in the SLC System storage tank, and the associated instrumentation changes. In addition, the effective SLC System flow rate utilized in the boron equivalency analysis is reduced. The proposed changes do not otherwise affect the design or operation of the SLC System.

This change does not adversely affect any current system interfaces or create any new interfaces that could result in an accident or

malfunction of a different kind than was previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will the change involve a significant reduction in a margin of safety?

Response: No.

The SLC System is used to mitigate the consequences of an ATWS event and is used to limit the radiological dose during a LOCA. The proposed changes do not affect the capability of the SLC System to perform these two functions in accordance with the assumptions of the associated analyses. The current ATWS analysis is not adversely affected by the proposed changes because the reactivity insertion rate would increase by a factor greater than 3 and the amount of injected boron-10 is not reduced. The ability of the SLC System to mitigate radiological dose in the event of a LOCA by maintaining suppression pool pH ≥ 7.0 is not affected by these changes.

Therefore, the proposed changes do 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.

Attorney for licensee: Gautam Sen, Senior Counsel, Constellation Energy Nuclear Group, LLC, 100 Constellation Way, Suite 200C, Baltimore, MD 21202.

Acting NRC Branch Chief: Robert Beall.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: April 19, 2013.

Description of amendment request: The licensee proposed to revise MNGP Technical Specification (TS) 1.1, "Definitions," to modify the definition of "Shutdown Margin (SDM)" to require calculation of the SDM at a reactor moderator temperature of 68 degrees Fahrenheit (°F), or at a higher temperature that represents the most reactive state throughout the operating cycle. This change is needed for newer boiling water reactor fuel designs which may be more reactive at shutdown temperatures above 68 °F. The proposed change is consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–535, Revision 0, "Revise Shutdown Margin Definition to Address Advanced Fuel Designs." Notice of availability of TSTF–535 was published in the **Federal Register** on February 26, 2013 (78 FR 13100).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC), which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the definition of SDM. SDM is not an initiator to any accident previously evaluated. Accordingly, the proposed change to the definition of ADM has no effect on the probability of any accident previously evaluated. ADM is an assumption in the analysis of some previously evaluated accidents and inadequate SDM could lead to an increase in consequences for those accidents. However, the proposed change revised the SDM definition to ensure that the correct SDM is determined for all fuel types at all times during the fuel cycle. As a result, the proposed change does not adversely affect the consequences of any accident previously evaluated.

Therefore, it is concluded that these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the definition of SDM. The change does not involve a physical alteration of the plant (i.e., no new of different type of equipment will be installed) or a change in methods governing normal plant operations. The change does not alter assumptions made in the safety analysis regarding SDM.

Therefore, it is concluded that these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revised the definition of SDM. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change ensures that the SDM assumed in determining safety limits, limiting safety system settings or limiting conditions for operation is correct for all BWR fuel types at all times during the fuel cycle.

Therefore, it is concluded that these changes do 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.

Attorney for the licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Robert D. Carlson.

Pacific Gas and Electric Co., Docket No. 50–133, Humboldt Bay Power Plant (HBPP), Unit 3 Humboldt County, California

Date of amendment request: May 3, 2013.

Description of amendment request: The proposed amendment would add License Condition 2.C.5 that approves the License Termination Plan (LTP) and adds a license condition that establishes the criteria for determining when changes to the LTP require prior NRC approval.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The change allows for the approval of the LTP and provides the criteria for when changes to the LTP require prior NRC approval. This change does not affect possible initiating events for the decommissioning accidents previously evaluated in the Humboldt Bay Power Plant (HBPP) defueled safety analysis report (DSAR), as updated, appendix A, "Implications of Decommissioning Accidents with Potential for Radiological Impacts to the Environment,' or alter the configuration or operation of the facility. Safety limits, limiting safety system settings, and limiting control systems are no longer applicable to HBPP in the permanently defueled mode, and are therefore not relevant.

The proposed change does not affect the boundaries used to evaluate compliance with liquid or gaseous effluent limits, and has no impact on plant operations.

Therefore, the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The safety analysis for the facility remains accurate as described in the HBPP DSAR, as updated, appendix A. There are sections of the LTP that refer to the decommissioning activities still remaining (e.g. removal of large components, decontamination, etc.). However, these activities are performed in accordance with approved HBPP work packages/steps and undergo 10 CFR 50.59 screening prior to initiation. The proposed amendment merely makes mention of these processes and does not bring about physical changes to the facility. Therefore, the facility

conditions for which the postulated accidents have been evaluated are still valid and no new accident scenarios, failure mechanisms, or single failures are introduced by this amendment. The system operating procedures are not affected.

Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Response: No.

There are no changes to the design or operation of the facility resulting from this amendment. The proposed change does not affect the boundaries used to evaluate compliance with liquid or gaseous effluent limits, and has no impact on plant shutdown operations. Accordingly, neither the postulated accident assumptions in the DSAR, as updated, appendix A, nor the Technical Specifications are affected.

Therefore, the proposed change 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.

Attorney for licensee: Ms. Jennifer K. Post, Pacific Gas and Electric Company, 77 Beale Street, B30A, San Francisco, CA.

NRC Branch Chief: Bruce Watson.

South Carolina Electric and Gas, Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: July 17, 2013.

Description of amendment request: The proposed amendment would depart from VCSNS Units 2 and 3 plant-specific Design Control Document (DCD) Tier 2 and Tier 2* material contained within the Updated Final Safety Analysis Report (UFSAR) to acknowledge various obstructions and interferences (other than wall openings and penetrations) that may cause a change to the design spacing of shear studs and the design and spacing of wall module trusses in a local area, and to acknowledge appropriate weld types.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design function of the containment structural modules is to support the reactor coolant system components and related piping systems and equipment. The design functions of the affected structural modules in the auxiliary building are to provide support and protection for new and spent fuel and the equipment needed to support fuel handling, cooling, and storage in the spent fuel racks, and to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located outside the containment building. The design function of the shear studs is to enable the concrete and steel faceplates to act in a composite manner and transfer loads into the concrete of the structural modules. The structural modules are seismic Category I structures and are designed for dead, live, thermal, pressure, safe shutdown earthquake loads, and loads due to postulated pipe breaks. The loads and load combinations applicable to the structural modules in the auxiliary building are the same as for the containment internal structures except that there are no design basis accident loadings due to the automatic depressurization system or pressure loads due to pipe breaks. The proposed changes to the UFSAR are to include types of interferences other than wall openings and penetrations that may cause a change in the design spacing of shear studs and the design and spacing of wall module trusses in a local area. The proposed changes clarify that the stud spacing is specified as a design value and add the tolerance for stud spacing. The revised spacing including the tolerance continues to be in conformance with the design and analysis requirements identified in the UFSAR. The proposed changes also include clarification of a requirement for a complete joint penetration weld. The thickness, geometry, and strength of the structures are not adversely altered. The material of the steel plates is not altered. The properties of the concrete included in the structural modules are not altered. As a result, the design function of the containment structural modules is not adversely affected by the proposed change. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor does the change described create any new accident precursors.

Therefore, 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 changes to the UFSAR acknowledge types of interferences (other than wall openings and penetrations) that may cause a change in the typical design spacing of shear studs and the design and spacing of wall module trusses in a local area. The proposed changes clarify that the stud spacing is specified as a design value and provide the tolerance for stud spacing. The revised spacing, including the tolerance, continues to be in conformance with the design and analysis requirements identified in the UFSAR. Stud spacing and sizing are evaluated to demonstrate that stud loadings and shear transfer capability are within acceptable limits and that the structural module acts in a composite manner. An additional proposed change is to clarify a requirement for a complete joint penetration weld. The thickness, geometry, and strength of the structures are not adversely altered. The materials of the steel plates are not altered. The properties of the concrete included in the structural modules are not altered. The changes to the internal design of the structural modules do not create any new accident precursors. As a result, the design function of the modules is not adversely affected by the proposed changes.

Therefore, 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 criteria and requirements of American Concrete Institute (ACI) 349 and American Institute of Steel Construction (AISC) N690 provide a margin of safety to structural failure. The design of the shear studs and wall trusses for the structural wall modules conforms to applicable criteria and requirements in ACI 349 and AISC N690 and, therefore, maintain the margin of safety. The proposed changes to the UFSAR acknowledge types of interferences (other than wall openings and penetrations) that may cause a change in the typical design spacing of shear studs and the design and spacing of wall module trusses in a local area. The proposed changes clarify that the stud spacing is specified as a design value and add the tolerance for stud spacing. The revised spacing including the tolerance continues to be in conformance with the design and analysis requirements identified in the UFSAR. An additional proposed change is to clarify a requirement for a complete joint penetration weld. There is no change to the capacity of the weld or to the design requirements of the modules. There is no change to the method of evaluation from that used in the design basis calculations.

Therefore, the proposed amendment does not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence Burkhart.

Southern Nuclear Operating Company, Docket Nos. 52–025, and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: March 15, 2013, and revised on July 10, 2013, and supplemented on August 16, 2013.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for Vogtle Electric Generating Plant (VEGP) Units 3 and 4 by departing from the plant-specific Design Control Document (DCD) Tier 1 (and corresponding Combined License Appendix C information) and Tier 2 material by making changes to the Non-Class 1E dc and Uninterruptible Power Supply System (EDS) and Uninterruptible Power Supply System (IDS) and making changes to the corresponding Tier 1 information in Appendix C to the Combined License. The proposed changes would:

(1) Increase EDS total equipment capacity, component ratings, and protective device sizing to support increased load demand,

(2) Relocate equipment and moving Turbine Building (TB) first bay EDS Battery Room and Charger Room. The floor elevation increases from elevation 148′–0″ to elevation 148′–10″ to accommodate associated equipment cabling with this activity, and

(3) Remove the Class 1E IDS Battery Back-up tie to the Non-Class 1E EDS Battery.

Because this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 design control document (DCD), the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design function of the Turbine Building (TB) is to provide weather protection for the laydown and maintenance of major turbine/generator components. The TB first bay is a seismic Category II structure designed to prevent the collapse under a safe shutdown earthquake (SSE) to protect the adjacent auxiliary building. The electrical system and air-handling units are designed to provide electrical power to plant loads and maintain acceptable temperatures for electrical equipment rooms and work areas. The electrical equipment continues to be in accordance with the same codes and standards stated in the Updated Final Safety Analysis Report (UFSAR). The proposed relocation of equipment, including the increase in floor elevation by 10 inches to accommodate overhead equipment cabling, does not impact the TB design function. The TB first bay continues to meet seismic Category II requirements. Based on this, the proposed changes would not increase the probability of an accident previously evaluated.

The proposed changes do not involve any accident initiating event, thus the probabilities of the accidents previously evaluated are not affected. The relocation of equipment does not involve any safety-related structures, systems, or components; the affected rooms do not represent a radioactive material barrier; and this activity does not affect the containment of radioactive material. The radioactive material source terms and release paths used in the safety analyses are unchanged, thus the radiological releases in the accident analyses are not affected. Therefore, the consequences of an accident previously evaluated are not affected.

Therefore the proposed changes do 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 changes would use the same type of electrical equipment with higher ratings and capacity, change the source of a battery back-up, and relocate equipment. The electrical equipment will continue to perform its design functions because the same electrical codes and standards as stated in the UFSAR continue to be met. Therefore the proposed changes do not affect equipment failure probabilities or alter any accident initiator or initiating sequence of events. The proposed changes in location of equipment and elevation of the TB first bay floor do not affect the design function of the TB first bay to protect the adjacent auxiliary building by meeting seismic Category II structure requirements, or affect the operation of the relocated equipment, or the ability of the relocated equipment to meet its design functions. Because the SSCs and equipment affected by the proposed changes continue to meet their design functions, the structural codes and standards as stated in the UFSAR, the proposed changes do not introduce a different type of accident than those previously considered.

Therefore, 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 current seismic requirements applicable to the seismic Category II TB first bay structure, including the seismic modeling and analysis methods, will continue to apply to the TB first bay floor elevation increase. The proposed changes to relocate equipment and the increase in the floor elevation will continue to meet the fire rating requirements and will be in accordance with the same codes and standards currently identified in the UFSAR. The proposed changes to the electrical equipment will continue to meet existing electrical equipment industry standard recommendations identified in the UFSAR. Because no safety analysis or design basis acceptance limit/criterion is challenged or exceeded by these proposed changes, no margin of safety is reduced.

Therefore, the proposed changes do 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.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence Burkhart.

Southern Nuclear Operating Company, Docket Nos. 52–025, and 52–026, Vogtle Electric Generating Station (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: July 2, 2013.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91, and NPF–92 for VEGP Units 3 and 4, respectively, by revising Tier 2* and associated Tier 2 information related to the design details of connections in several locations between the steel plate composite construction (SC) used for the shield building and the standard reinforced concrete (RC) walls, floors, and roofs of the auxiliary building and lower walls of the shield building. These connections are also referred to as "RC to SC connections." *Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design functions of the nuclear island structures are to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located in the nuclear island. The nuclear island structures are structurally designed to meet

seismic Category I requirements as defined in Regulatory Guide 1.29. The change to the detail design of connections between the RC and SC structures do not have an adverse impact on the response of the nuclear island structures to safe shutdown earthquake ground motions or loads due to anticipated transients or postulated accident conditions. The changes to the detail design do not impact the support, design, or operation of mechanical and fluid systems. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the changes describe create any new accident precursors.

Therefore, 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 changes are to the detail design of connections between the RC and SC structures. The changes to the detail design of connections do not change the criteria and requirements for the design and analysis of the nuclear island structures. The changes to the detail design of connections do not change the design function, support, design, or operation of mechanical and fluid systems. The changes to the detail design of connections do not change the methods used to connect the RC to the SC. The changes to the detail design of the connections do not result in a new failure mechanism for the nuclear island structures or new accident precursors. As a result, the design functions of the nuclear island structures are not adversely affected by the proposed changes.

Therefore, 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.

No safety analysis or design basis acceptance limit/criterion is involved by the requested changes, thus, no margin of safety is reduced.

Therefore, the proposed change 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.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmington, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Southern Nuclear Operating Company, Docket Nos. 52–025, and 52–026, Vogtle Electric Generating Station (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: July 15, 2013.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91, and NPF–92 for VEGP Units 3 and 4, respectively, by revising Tier 2* information related to the construction of Module CA03. Some of these changes include the removal of specifically mentioned materials, increasing anchoring supports and allowing the use of anchor bars with hooks.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design functions of the nuclear island structures are to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located in the nuclear island. The nuclear island structures are structurally designed to meet seismic Category I requirements as defined in Regulatory Guide 1.29. The change to the design details for the in-containment refueling water storage tank (IRWST) west wall does not have an adverse impact on the response of the nuclear island structures to safe shutdown earthquake ground motions or loads due to anticipated transients or postulated accident conditions, nor does it change the seismic Category I classification. The change to the design details for the IRWST west wall does not impact the support, design, or operation of mechanical and fluid systems. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor does the change described create any new accident precursors.

Therefore, 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 to revise design details for the IRWST west wall. The change of the design details for the IRWST west wall does not change the design requirements of the nuclear island structures, nor the seismic Category I classification. The change of the design details for the IRWST west wall does not change the design function, support, design, or operation of mechanical and fluid systems. The change of the design details for the IRWST west wall does not result in a new failure mechanism for the nuclear island structures or introduce any new accident precursors. As a result, the design function of the nuclear island structures is not adversely affected by the proposed change.

Therefore, 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.

No safety analysis or design basis acceptance limit/criterion is involved by the requested changes, thus, no margin of safety is reduced.

Therefore, the proposed change 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.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Southern Nuclear Operating Company, Docket Nos. 52–025, and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: August 6, 2013.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91, and NPF–92 for Vogtle Electric Generating Plant (VEGP) Units 3 and 4 by departing from the plant-specific Design Control Document (DCD) Tier 1(and corresponding Combined License Appendix C information) and Tier 2 material by revising the safety function and classification of Liquid Radwaste System (WLS) drain hubs in the Chemical and Volume Control System and Passive Core Cooling System (PXS) compartments. In addition, the proposed changes would modify the PXS compartment drain piping connection; WLS valve types, and depiction of components in the WLS figures.

Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 DCD, the licensee also requested an exemption from the requirements of the Generic

DCD Tier 1 in accordance with 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design function of the WLS is containment isolation and the prevention of backflow in the drain lines from the CVS compartment and the PXS compartment to the containment sump which prevents cross flooding of these compartments. The proposed changes to the WLS drainage function; the CVS and PXS compartment drain hubs; and the WLS valve types do not affect these design functions or any other system design function. Revising the drain hub safety classification, the PXS drains connection type, and the WLS valve types do not involve any accident initiating event or component failure. The changes to how components (valves, filters) are depicted in the figure provide consistency with the figure legend and do not alter any system functions. The system will utilize the same codes and standards previously used for the system. Since there are no impacts on accident initiating events or component failures, the probability of an accident previously evaluated is not affected. The radioactive material source terms and release paths used in the safety analyses are unchanged, thus the radiological releases in the Updated Final Safety Analysis Report (UFSAR) accident analyses are not affected.

Therefore, 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 changes to the WLS system do not adversely affect the design or quality of any structure, system or component. Revising the WLS safety functions and re-classifying the drain hubs as nonsafety-related does not create a new fault or sequence of events that could result in a radioactive material release nor do the changes to the WLS piping connections, valve types and the depiction of components on the figure have any impact on any accident previously evaluated.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to the WLS system drain hubs, piping connection, valve type, and Tier 1 figure depiction would not affect any radioactive material barrier. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed change, thus no margin of safety is reduced.

Therefore, 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.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348, and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: December 21, 2012, as supplemented on May 21, 2013.

Description of amendment request: The proposed amendments would revise the Joseph M. Farley Nuclear Plant (FNP) Facility Operating Licenses (FOL), Appendix C, to require Southern Nuclear Operating Company (SNC) to fully implement and maintain in effect the Degraded Voltage Protection modification schedule.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the FNP FOL that incorporates the Degraded Voltage Protection modification implementation schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested or inspected.

Therefore, this proposed change does not involve a significant increase in the Probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the FNP FOL that incorporates the Degraded Voltage Protection modification implementation schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested or inspected.

Therefore, this proposed change 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.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the FNP FOL is administrative in nature. Because there is no change to these established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Leigh D. Perry, SVP & General Counsel, Southern Nuclear Operating Company, 40 Inverness Center Parkway, Birmingham, AL 35242.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321, and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: December 21, 2012, as supplemented June 21, 2013.

Description of amendment request: The proposed License Amendment Request (LAR) would revise the Edwin I. Hatch Nuclear Plant (HNP) Facility Operating Licenses to require Southern Nuclear Operating Company (SNC) to implement modifications that will eliminate the need for administrative controls with regard to protection of the plant from degraded grid voltage conditions for HNP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the HNP FOL that incorporates the Degraded Voltage Protection modification implementation schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested or inspected.

Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the HNP FOL that incorporates the Degraded Voltage Protection modification implementation schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested or inspected.

Therefore, this proposed change 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.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the HNP FOL is administrative in nature. Because there is no change to these established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Leigh D. Perry, SVP & General Counsel, Southern Nuclear Operating Company, 40 Inverness Center Parkway, Birmingham, AL 35242.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321, and 50–366, Edwin I. Hatch Nuclear Plant (HNP), Units 1 and 2, Appling County, Georgia

Date of amendment request: July 23, 2013.

Description of amendment request: The proposed amendments would modify Technical Specification (TS) requirements related to control room envelope (CRE) habitability in accordance with the Nuclear Regulatory Commission (NRC)-approved Revision 3 of Technical Specification Task Force (TSTF) Standard Technical Specifications (STS) Change Traveler TSTF–448, "Control Room Habitability."

The NRC staff published a notice of opportunity for comment in the **Federal Register** on October 17, 2006 (71 FR 61075), on possible license amendments adopting TSTF–448 using the NRC's consolidated line-item improvement process (CLIIP) for amending licensees' TSs, which included a model safety evaluation (SE) and model no significant hazards consideration (NSHC) determination. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on January 17, 2007 (72 FR 2022), which included the resolution of public comments on the model SE and model NSHC determination. The licensee affirmed the applicability of the following NSHC determination in its application dated July 23, 2013.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC is presented below:

Criterion 1

The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change revises the TS for the CRE emergency ventilation system, which is a mitigation system designed to minimize unfiltered air leakage into the CRE and to filter the CRE atmosphere to protect the CRE occupants in the event of accidents previously analyzed. An important part of the CRE emergency ventilation system is the CRE boundary. The CRE emergency ventilation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability of any accident previously evaluated is not increased. Performing tests to verify the operability of the CRE boundary and implementing a program to assess and maintain CRE habitability ensure that the CRE emergency ventilation system is capable of adequately mitigating radiological consequences to CRE occupants during accident conditions, and that the CRE emergency ventilation system will perform as assumed in the consequence analyses of design basis accidents. Thus, the consequences of any accident previously evaluated are not increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.

The proposed change does not impact the accident analysis. The proposed change does not alter the required mitigation capability of the CRE emergency ventilation system, or its functioning during accident conditions as assumed in the licensing basis analyses of design basis accident radiological consequences to CRE occupants. No new or different accidents result from performing the new surveillance or following the new program. The proposed change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. The proposed change does not alter any safety analysis assumptions and is consistent with current plant operating practice.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation as determined. The proposed change does not affect safety analysis acceptance criteria. The proposed change will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without compensatory measures. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Leigh D. Perry, SVP & General Counsel, Southern Nuclear Operating Company, 40 Inverness Center Parkway, Birmingham, AL 35242.

NRC Branch Chief: Robert Pascarelli.

Tennessee Valley Authority, Docket Nos. 50–327, and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: July 3, 2013 (SQN–TS–12–04).

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) 3/4.6.5, "Ice Condenser." The proposed changes would revise TS Limiting Condition for Operation 3.6.5.1.d and TS Surveillance Requirement 4.6.5.1.d.2 to raise the overall ice condenser ice weight from 2,225,880 pounds (lbs) to 2,540,808 lbs and to raise the minimum TS ice basket weight from 1145 lbs to 1307 lbs, respectively. These changes are necessary to address the issues raised in Nuclear Safety Advisory Letter (NSAL) 11–5, "Westinghouse LOCA [Loss-of-Coolant Accident] Mass and Energy Release Calculation Issues." The issues identified in NSAL–11–5 affected plant-specific LOCA mass and energy release calculation results that are used as input to the containment integrity response analyses. The basis for the proposed changes is provided in WCAP–12455, Revision 1, Supplement 2R, "Tennessee Valley Authority [TVA] Sequoyah Nuclear Plant [SQN] Units 1 and 2 Containment Integrity Reanalyses Engineering Report."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

The analyzed accidents of consideration in regards to changes affecting the ice condenser are a loss of coolant accident (LOCA) and a main steam line break (MSLB) inside containment. The ice condenser is a passive system and is not postulated as being the initiator of any LOCA or MSLB and is designed to remain functional following a design basis earthquake. In addition, the ice condenser does not interconnect or interact with any systems that have an interface with the reactor coolant or main steam systems.

For SQN, the LOCA is the more severe accident in terms of containment pressure and ice bed melt out, and is therefore the more limiting accident. The revised SQN LOCA containment integrity analysis determined that the post-LOCA peak containment pressure is below the containment design pressure and that the margin to ice meltout is maintained. The analysis assumes an ice weight that ensures sufficient heat removal capability is available from the ice condenser to limit the accident peak pressure inside containment.

TVA has evaluated the effects of the increased ice condenser ice weight and determined that the increase in ice weight does not invalidate the ice condenser seismic qualification, does not adversely affect the capacity of the ice bed to absorb iodine during a LOCA, and does not diminish the boron concentration of the recirculated primary coolant during a LOCA.

TVA has also evaluated differences between the as-built plant and the assumptions of the revised analysis and determined that the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W17 High Thermal Performance (HTP) fuel.

The proposed changes reflect the ice weight assumed in the containment integrity analysis including conservative allowances for sublimation and weighing instrument systematic error. Accordingly, the proposed changes ensure that ice weight values maintain margin between the calculated peak containment accident pressure and the containment design pressure. The results of the analysis and the margins are maintained; therefore, the consequences of a previously evaluated accident are not adversely affected by the proposed changes.

Because (1) the ice condenser is not an accident initiator, (2) the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W17 High Thermal Performance (HTP) fuel, and (3) the proposed changes to the TSs are limited to revision of the ice weight values to reflect the revised containment integrity analysis, there is no change in the probability of an accident previously evaluated in the SQN Updated Final Safety Analysis Report (UFSAR).

Based on the above discussions, the proposed changes do not involve an 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 ice condenser serves to limit the peak pressure inside containment following a LOCA or MSLB. The proposed changes are limited to the revision of the minimum ice weights specified in the TSs. The revised containment pressure analysis determined that sufficient ice would be present to maintain the peak containment pressure below the containment design pressure. No new modes of operation, accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed change.

TVA has evaluated the effects of the increased ice condenser ice weight and determined that the increase in ice weight does not invalidate the ice condenser seismic qualification, does not adversely affect the capacity of the ice bed to absorb iodine during a LOCA, and does not diminish the boron concentration of the recirculated primary coolant during a LOCA. TVA has also evaluated differences between the as-built plant and the assumptions of the revised analysis and determined that the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W17 High Thermal Performance (HTP) fuel. Because sufficient ice weight is available to maintain the peak containment pressure below the containment design pressure, the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W17 High Thermal Performance (HTP) fuel, and the increase in ice weight does not invalidate the ice condenser seismic qualification, the increased ice weight does not create the possibility of an accident that is different than any already evaluated in the SQN UFSAR.

Therefore, the proposed changes do 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 operability of the ice bed ensures that the required ice inventory will (1) be distributed evenly through the containment bays, (2) contain sufficient boron to preclude dilution of the containment sump following the LOCA and (3) contain sufficient heat removal capability to condense the reactor system volume released during a LOCA. These conditions are consistent with the assumptions used in the accident analyses.

The revised analysis demonstrates that the ice condensers will continue to preclude over-pressurizing the lower containment and continue to absorb sufficient heat energy to assist in precluding containment vessel failure. TVA has evaluated the effects of the increased ice condenser ice weight and determined that the increase in ice weight does not invalidate the ice condenser seismic qualification, does not adversely affect the capacity of the ice bed to absorb iodine during a LOCA, and does not diminish the boron concentration of the recirculated primary coolant during a LOCA.

The proposed changes are required to resolve non-conservative TSs currently addressed by administrative controls established in accordance with Nuclear Regulatory Commission (NRC) Administrative Letter 98–10. The revised containment integrity response analysis requires an increase in the required ice weight to ensure that the post-LOCA peak containment pressure remains within the design limits. As a result, the proposed changes restore margin between the accident peak pressure and the containment design pressure and resolve non-conservative TSs ice weight values currently under administrative controls. Accordingly, the proposed changes do 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration. *Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902. *Acting NRC Branch Chief:* Douglas A. Broaddus.

Virginia Electric and Power Company, Docket Nos. 50–338, and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Virginia Electric and Power Company, Docket No. 50–280, and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of amendment request: June 26, 2013.

Description of amendment request: The proposed license amendment (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13179A014) requests the approval of (1) generic application of Appendix D, "Qualification of the ABB–NV and WLOP Critical Heat Flux (CHF) Correlations in the Dominion VIPRE–D Computer Code," to Fleet Report DOM–NAF–2–A, "Reactor Core Thermal-Hydraulics Using the VIPRE–D Computer Code," (2) the plant-specific application of Appendix D to DOM–NAF–2–A to North Anna and Surry Power Stations (in accordance with Section 2.1 of DOM–NAF–2–A), and (3) an increase in the Surry Power Station Technical Specification Minimum Temperature for Criticality.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The first and second proposed changes would allow Dominion to use the VIPRE–D/ABB–NV and VIPRE–D/WLOP code/correlation pairs to perform licensing calculations for North Anna and Surry, using the DDLs documented in Appendix D of Fleet Report DOM–NAF–2. Neither code/correlation pair methodology makes any contribution to the potential accident initiators and thus cannot increase the probability of any accident. Further, since the DDLs for ABB–NV and WLOP meet the required design basis of avoiding departure from nucleate boiling (DNB) with 95% probability at a 95% confidence level, the use of the new code/correlations does not increase the potential consequences of any accident. The pertinent evaluations that need to be performed as part of the cycle specific reload safety analysis to confirm that the existing safety analyses remain applicable have been performed and determined to be acceptable. The use of a different code/correlation pair will not increase the probability of an accident because plant systems will not be operated in a different manner, and system interfaces will not change. The use of the VIPRE–D/ABB–NV and VIPRE–D/WLOP code/correlation pairs to perform licensing calculations for North Anna and Surry will not result in a measurable impact on normal operating plant releases and will not increase the predicted radiological consequences of accidents postulated in the Updated Final Safety Analysis Report (UFSAR). Therefore, neither the probability of occurrence nor the consequences of any accident previously evaluated is significantly increased.

The third proposed change, an increase of the Surry Minimum Temperature for Criticality limit from 522 °F to 538 °F, would provide Dominion with increased flexibility during loading pattern development as well as improved design margins when coupled with the second proposed change. The Minimum Temperature for Criticality is used within the reload verification process to ensure the assumptions made in the safety analysis remain bounding for the given cycle design. With implementation of the proposed change, the reload design and licensing requirements will remain in place and continue to be met at the increased Minimum Temperature for Criticality limit.

The increase in the Surry Minimum Temperature for Criticality limit will not increase the probability of an accident because plant systems will not be operated in a different manner, and system interfaces will not change. Should the reactor coolant system (RCS) temperature fall below the proposed limit, the unit would be in an abnormal condition requiring operator action. The operator actions are not changing as a result of the increased Minimum Temperature for Criticality limit. The increase in the Surry Minimum Temperature for Criticality will not result in a measurable impact on normal operating plant releases and will not increase the predicted radiological consequences of accidents postulated in the UFSAR. Therefore, neither the probability of occurrence nor the consequences of any accident previously evaluated is significantly increased.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed).

The use of the VIPRE–D/ABB–NV and VIPRE–D/WLOP code/correlation pairs and the applicable fuel design limits for DNB ratio (DNBR) does not impact any of the applicable design criteria and the pertinent licensing basis criteria will continue to be met. Demonstrated adherence to these standards and criteria precludes new challenges to components and systems that could introduce a new type of accident. Setpoint safety analysis evaluations have demonstrated that the use of the VIPRE–D/ABB–NV and VIPRE–D/WLOP code/correlation pairs is acceptable. Design and performance criteria will continue to be met, and no new single failure mechanisms will be created. The use of the VIPRE–D/ABB–NV and VIPRE–D/WLOP code/correlation pairs does not involve any alteration to plant equipment or procedures that would introduce any new or unique operational modes or accident precursors.

The increase in the Surry Minimum Temperature for Criticality does not result in any plant design changes. In addition, the minimum temperature at which the reactor is taken critical is not an accident initiator. The nominal average reactor coolant system temperature during an approach to criticality is several degrees higher than the limit proposed for the Minimum Temperature for Criticality.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. Does this change involve a significant reduction in a margin of safety?

The first two proposed changes would allow Dominion to use the VIPRE–D/ABB–NV and VIPRE–D/WLOP code/correlation pairs to perform licensing calculations for North Anna and Surry using the DDLs documented in Appendix D of Fleet Report DOM–NAF–2. North Anna TS 2.1, "Safety Limits," states that, "the departure from nucleate boiling ratio (DNBR) shall be maintained greater than or equal to the 95/95 DNBR criterion for the DNB correlations and methodologies specified in Section 5.6.5 [COLR]." The DNBR limits meet the design basis of avoiding DNB with 95% probability at a 95% confidence level. Surry TS 2.1, "Safety Limits, Reactor Core," specifies that "for transients analyzed using the deterministic methodology, the DNBR shall be maintained greater than or equal to the applicable DNB correlation limit." The required DNBR margin of safety for North Anna and Surry, which in this case is the margin between the 95/95 DNBR limit and clad failure, is therefore not reduced. Therefore, the proposed TS changes do not involve a significant reduction in a margin of safety.

The increased Minimum Temperature for Criticality in conjunction with the appropriate core designs will ensure the current TS limits for the most positive moderator temperature coefficient will continue to be satisfied. The current analyses are bounding and remain applicable with the increased Minimum Temperature for Criticality. Therefore, the proposed change 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Robert Pascarelli.

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, (Fermi 1) Monroe County, Michigan.

Date of amendment request: December 21, 2012 (ML13002A037).

Brief description of amendment: This amendment revised the Fermi 1 license to change the licensee's name on the license to "DTE Electric Company." This name change is purely administrative in nature. Detroit Edison is a wholly owned subsidiary of DTE Energy Company, and this name change is part of a set of name changes of DTE Energy subsidiaries to conform their names to the "DTE" brand name. No other changes are contained within this amendment. This change does not involve a transfer of control over or of an interest in the license for Fermi 1.

Date of issuance: August 8, 2013.

Effective date: On the date of issuance of this amendment and must be fully implemented no later than 60-calendar days from the date of issuance.

Amendment No.: 21.

Facility Operating License No. DPR–9: Amendment revised the License by replacing "the Detroit Edison" with "DTE Electric" on pages 1, 2, 4, and 5.

Date of initial notice in ***Federal Register:*** March 19, 2013 (78 FR 16876).

The NRC's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 2013.

No significant hazards consideration comments: None received.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413, and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: November 22, 2011, as supplemented by letters dated July 9, 2012, November 12, 2012, January 28, 2013, and May 15, 2013.

Brief description of amendments: The amendments revised the Technical Specifications to allow single discharge header operation of the nuclear service water system for a time period of 14 days.

Date of issuance: August 9, 2013.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 271 and 267.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the licenses and the Technical Specifications.

Date of initial notice in ***Federal Register***: May 15, 2012 (77 FR 28630). The supplements dated July 9, 2012, November 12, 2012, January 28, 2013, and May 15, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 9, 2013.

No significant hazards consideration comments received: No.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station (VYNPS), Vernon, Vermont

Date of amendment request: December 21, 2012, as supplemented on March 19, April 29, May 7, May 14, and June 26, 2013.

Brief description of amendment: The amendment revised the VYNPS licensing basis relative to how the station satisfies the requirements of 10 CFR 50.63, "Loss of all alternating current power," by replacing the Vernon Hydroelectric Station with an onsite diesel generator as the alternate alternating current power source that would provide acceptable capability to withstand a station blackout under 10 CFR 50.63(c)(2). The change involves revisions to the VYNPS facility and procedures described in the Updated Final Safety Analysis Report.

Date of Issuance: August 15, 2013.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 258.

Facility Operating License No. DPR–28: The amendment revised the License.

Date of initial notice in ***Federal Register:*** March 19, 2013 (78 FR 16881).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated August 15, 2013.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of application for amendment: December 6, 2012.

Brief description of amendment: The amendment revises the MNGP Technical Specifications (TS) Section 3.10.1. Specifically, the amendment revises Limiting Condition for Operation 3.10.1 and the associated TS Bases to expand its scope to include provisions for temperature excursions

greater than 212 °F as a consequence of inservice leak and hydrostatic testing, and as a consequence of scram time testing initiated in conjunction with an inservice or hydrostatic test, while considering operation conditions to be in Mode 4. The changes are consistent with NRC-approved Technical Specifications Task Force (TSTF) Improved Standard Technical Specifications Change Traveler, TSTF–484, Revision 0, "Use of TS 3.10.1 for Scram Time Testing Activities."

Date of issuance: August 9, 2013.

Effective date: This license amendment is effective as of the date of its date of issuance and will be implemented within 120 days of issuance.

Amendment No.: 174.

Renewed Facility Operating License No. DPR–22: Amendment revises the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** March 4, 2013.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 9, 2013.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 23rd day of August 2013.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–21247 Filed 8–30–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0001]

Sunshine Act Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of September 2, 9, 16, 23, 30, October 7, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of September 2, 2013

There are no meetings scheduled for the week of September 2, 2013.

Week of September 9, 2013—Tentative

There are no meetings scheduled for the week of September 9, 2013.

Week of September 16, 2013—Tentative

There are no meetings scheduled for the week of September 16, 2013.

Week of September 23, 2013—Tentative

There are no meetings scheduled for the week of September 23, 2013.

Week of September 30, 2013—Tentative

There are no meetings scheduled for the week of September 30, 2013.

Week of October 7, 2013—Tentative

There are no meetings scheduled for the week of October 7, 2013.

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: August 28, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–21465 Filed 8–29–13; 4:15 pm]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; Board of Directors Meeting

TIME AND DATE: Thursday, September 19, 2013, 2 p.m. (OPEN Portion) 2:15 p.m. (CLOSED Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

STATUS: Meeting OPEN to the Public from 2 p.m. to 2:15 p.m. Closed portion will commence at 2:15 p.m. (approx.).

MATTERS TO BE CONSIDERED: 1. President's Report.

2. Tribute—Ambassador Demetrios J. Marantis.

3. Tribute—Robert D. Hormats.

4. Confirmation—Michael S. Whalen as Vice President, Structured Finance.

5. Minutes of the Open Session of the June 13, 2013 Board of Directors Meeting.

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 2:15 p.m.):

1. Finance Project—Kenya and Tanzania.

2. Finance Project—Pakistan.

3. Finance Project—Chile.

4. Finance Project—Brazil.

5. Finance Project—Turkey.

6. Finance Project—Chile.

7. Minutes of the Closed Session of the June 13, 2013 Board of Directors Meeting.

8. Minutes of the August 14, 2013 Special Meeting of the Board of Directors.

9. Minutes of the August 19, 2013 Special Meeting of the Board of Directors.

10. Reports.

11. Pending Major Projects.

Written summaries of the projects to be presented will be posted on OPIC's Web site on or about August 29, 2013.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: August 29, 2013.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2013–21450 Filed 8–29–13; 4:15 pm]

BILLING CODE 3210–01–P

SECURITIES AND EXCHANGE COMMISSION

Investment Company Act Release No. 30679; File No. 812–14167

Franklin Templeton International Trust, et al.; Notice of Application

August 27, 2013.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants request an order that would permit them

to enter into and materially amend subadvisory agreements with Wholly-Owned Sub-Advisors (as defined below) and non-affiliated sub-advisors without shareholder approval and would grant relief from certain disclosure requirements. The requested order would supersede a prior order that granted relief to certain of the applicants solely with respect to Wholly-Owned Sub-Advisors and did not grant relief from certain disclosure requirements.[1]

APPLICANTS: Franklin Templeton International Trust, Franklin Templeton Variable Insurance Products Trust, Templeton Income Trust, Templeton Global Investment Trust, Franklin Alternative Strategies Funds (each, a "Trust" and together, the "Trusts"); and K2/D&S Management Co., L.L.C. ("K2 Advisors"), Templeton Asset Management Ltd. ("TAML") and Franklin Advisers, Inc. ("FAV") (each a "Manager").

FILING DATES: The application was filed on June 13, 2013, and amended on August 27, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 23, 2013, 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.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, One Franklin Parkway, San Mateo, CA 94403–1906.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551–6811, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Exemptive Applications Office).

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.

[1] Franklin Advisers, Inc. and Franklin Templeton International Trust, Investment Company Act Release Nos. 30105 (Jun. 18, 2012) (notice) and 30138 (Jul. 17, 2012) (order).

Applicants' Representations

1. Each Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. Each Trust currently offers at least one series of shares (each, a "Series") with its own distinct investment objectives, policies and restrictions that is authorized to operate under a multi-manager structure. FAV is a California corporation and TAML is a Singapore company, and each is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). FAV and TAML are wholly-owned direct or indirect subsidiaries of Franklin Resources. Franklin Resources is a global investment management organization operating as Franklin Templeton Investments and is engaged primarily, through various subsidiaries, in providing investment management, share distribution, transfer agent and administrative services to a family of registered funds. K2 Advisors, a Delaware limited liability company, is registered as an investment adviser under the Advisers Act. K2 Advisors is a wholly-owned subsidiary of K2 Advisors Holdings, LLC, of which Franklin Resources owns a majority stake.[2]

2. Each Series has, or will have, as its investment adviser, a Manager, or another investment adviser controlling, controlled by or under common control with any Manager or its successors (each, a "Manager").[3] A Manager serves as the investment adviser to each Series pursuant to an investment advisory agreement with the relevant Trust ("Investment Management Agreement'). The Investment Management Agreement for each existing Series was approved by the board of trustees of the Trust ("Board"),[4] including a majority of the members of the Board who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Series or the Manager ("Independent Board Members") and by the shareholders of the relevant Series as required by sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. The terms of these Investment Management Agreements comply with section 15(a) of the Act. Each other Investment Management Agreement will comply with section 15(a) of the Act and will be similarly approved.

3. Under the terms of each Investment Management Agreement, the Manager, subject to the supervision of the Board, provides continuous investment management of the assets of each Series. The Manager periodically reviews a Series' investment policies and strategies, and based on the need of a particular Series may recommend changes to the investment policies and strategies of the Series for consideration by the Board. For its services to each Series under the applicable Investment Management Agreement, the Manager receives an investment management fee from that Series. Each Investment Management Agreement provides that the Manager may, subject to the approval of the Board, including a majority of the Independent Board Members, and the shareholders of the applicable Subadvised Series (if required), delegate portfolio management responsibilities of all or a portion of the assets of a Subadvised Series to one or more Sub-Advisors.[5]

4. Applicants request an order to permit the Manager, subject to the approval of the Board, including a

[2] Applicants request that the relief apply to applicants, as well as to any future Series and any other existing or future registered open-end management investment company or series thereof that is advised by a Manager, uses the multi-manager structure described in the application, and complies with the terms and conditions of the application ("Subadvised Series"). All registered open-end investment companies that currently intend to rely on the requested order are named as applicants. All Series that currently are, or that currently intend to rely on the requested order are named as applicants. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application. If the name of any Subadvised Series contains the name of a Sub-Advisor (as defined below), the name of the Manager that serves as the primary adviser to the Subadvised Series, or a trademark or trade name that is owned by or publicly used to identify that Manager, will precede the name of the Sub-Advisor.

[3] Each Manager is, or will be, registered with the Commission as an investment adviser under the Advisers Act. For purposes of the requested order, "successor" is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[4] The term "Board" also includes the board of trustees or directors of a future Subadvised Series.

[5] A "Sub-Advisor" is (a) an indirect or direct "wholly-owned subsidiary" (as such term is defined in the Act) of the Manager for that Series; (b) a sister company of the Manager for that Series that is an indirect or direct "wholly-owned subsidiary" (as such term is defined in the Act) of the same company that, indirectly or directly, wholly owns the Manager (each of (a) and (b), a "Wholly-Owned Sub-Advisor" and collectively, the "Wholly-Owned Sub-Advisors"), or (c) an investment sub-advisor for that Series that is not an "affiliated person" (as such term is defined in section 2(a)(3) of the Act) of the Series or the Manager, except to the extent that an affiliation arises solely because the sub-advisor serves as a sub-advisor to a Series (each, a "Non-Affiliated Sub-Advisor").

majority of the Independent Board Members, to, without obtaining shareholder approval: (i) select Sub-Advisors to manage all or a portion of the assets of a Series and enter into Sub-Advisory Agreements (as defined below) with the Sub-Advisors, and (ii) materially amend Sub-Advisory Agreements with the Sub-Advisors.[6] The requested relief will not extend to any sub-advisor, other than a Wholly-Owned Sub-Advisor, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Series or of the Manager, other than by reason of serving as a sub-advisor to one or more of the Subadvised Series ("Affiliated Sub-Advisor").

5. Pursuant to each Investment Management Agreement, the Manager has overall responsibility for the management and investment of the assets of each Subadvised Series. These responsibilities include recommending the removal or replacement of Sub-Advisors, determining the portion of that Subadvised Series' assets to be managed by any given Sub-Advisor and reallocating those assets as necessary from time to time.

6. Each Manager may enter, and certain Managers have entered, into sub-advisory agreements with various Sub-Advisors ("Sub-Advisory Agreements") to provide investment management services to the Subadvised Series. The terms of each Sub-Advisory Agreement comply fully with the requirements of section 15(a) of the Act and were, or will be, approved by the Board, including a majority of the Independent Board Members and the initial shareholder of the applicable Subadvised Series, in accordance with sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. The Sub-Advisors, subject to the supervision of the Manager and oversight of the Board, determine the securities and other investments to be purchased or sold by a Subadvised Series and place orders with brokers or dealers that they select. The Manager will compensate each Sub-Advisor out of the fee paid to the Advisor under the relevant Investment Management Agreement.

7. Subadvised Series will inform shareholders of the hiring of a new Sub-Advisor pursuant to the following procedures ("Modified Notice and Access Procedures"): (a) within 90 days after a new Sub-Advisor is hired for any Subadvised Series, that Subadvised Series will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement;[7] and (b) the Subadvised Series will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. In the circumstances described in the application, a proxy solicitation to approve the appointment of new Sub-Advisors provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Applicants state that each Board would comply with the requirements of sections 15(a) and 15(c) of the Act before entering into or amending Sub-Advisory Agreements.

8. Applicants also request an order exempting the Subadvised Series from certain disclosure obligations that may require each Subadvised Series to disclose fees paid by the Manager to each Sub-Advisor. Applicants seek relief to permit each Subadvised Series to disclose (as a dollar amount and a percentage of the Subadvised Series' net assets): (a) The aggregate fees paid to the Manager and any Wholly-Owned Sub-Advisors; (b) the aggregate fees paid to Non-Affiliated Sub-Advisors; and (c) the fee paid to each Affiliated Sub-Advisor (collectively, the "Aggregate Fee Disclosure").

Applicants' Legal Analysis

1. Section 15(a) of the Act states, in part, that it is unlawful for any person to act as an investment adviser to a registered investment company "except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company." Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires a registered investment company to disclose in its statement of additional information the method of computing the "advisory fee payable" by the investment company, including the total dollar amounts that the investment company "paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years."

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Exchange Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fee," a description of the "terms of the contract to be acted upon," and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

5. Section 6(c) of the Act provides that the Commission by order upon application may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent

[6] Shareholder approval will continue to be required for any other sub-advisor change (not otherwise permitted by rule or other action of the Commission or staff) and material amendments to an existing Sub-Advisory Agreement with any sub-advisor other than a Non-Affiliated Sub-Advisor or a Wholly-Owned Sub-Advisor (all such changes referred to as "Ineligible Sub-Advisor Changes").

[7] A "Multi-manager Notice" will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 ("Exchange Act"), and specifically will, among other things: (a) Summarize the relevant information regarding the new Sub-Advisor (except as modified to permit Aggregate Fee Disclosure (as defined below); (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Series.

A "Multi-manager Information Statement" will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed with the Commission via the EDGAR system.

with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Manager, subject to the review and approval of the Board, to select the Sub-Advisors who are in the best position to achieve the Subadvised Series' investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisors is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants believe that permitting the Manager to perform the duties for which the shareholders of the Subadvised Series are paying the Manager—the selection, supervision and evaluation of the Sub-Advisors—without incurring unnecessary delays or expenses is appropriate in the interest of the Subadvised Series' shareholders and will allow such Subadvised Series to operate more efficiently. Applicants state that each Investment Management Agreement will continue to be fully subject to section 15(a) of the Act and rule 18f–2 under the Act and approved by the Board, including a majority of the Independent Board Members, in the manner required by sections 15(a) and 15(c) of the Act. Applicants are not seeking an exemption with respect to the Investment Management Agreements.

7. Applicants assert that disclosure of the individual fees that the Manager would pay to the Sub-Advisors of Subadvised Series that operate under the multi-manager structure described in the application would not serve any meaningful purpose. Applicants contend that the primary reasons for requiring disclosure of individual fees paid to Sub-Advisors are to inform shareholders of expenses to be charged by a particular Subadvised Series and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the advisory fee paid to the Manager will be fully disclosed and, therefore, shareholders will know what the Subadvised Series' fees and expenses are and will be able to compare the advisory fees a Subadvised Series is charged to those of other investment companies. Applicants assert that the requested disclosure relief would benefit shareholders of the Subadvised Series because it would improve the Manager's ability to negotiate the fees paid to Sub-Advisors. Applicants state that the Manager may be able to negotiate rates that are below a Sub-Advisor's "posted" amounts if the Manager is not required to disclose the Sub-Advisors' fees to the public. Applicants submit that the relief requested to use Aggregate Fee Disclosure will encourage Sub-Advisors to negotiate lower subadvisory fees with the Manager if the lower fees are not required to be made public.

8. For the reasons discussed above, applicants submit that the requested relief meets the standards for relief under section 6(c) of the Act. Applicants state that the operation of the Subadvised Series in the manner described in the application must be approved by shareholders of a Subadvised Series before that Subadvised Series may rely on the requested relief. In addition, applicants state that the proposed conditions to the requested relief are designed to address any potential conflicts of interest, including any posed by the use of Wholly-Owned Sub-Advisors, and provide that shareholders are informed when new Sub-Advisors are hired. Applicants assert that conditions 6, 10 and 11 are designed to provide the Board with sufficient independence and the resources and information it needs to monitor and address any conflicts of interest with affiliated persons of the Manager, including Wholly-Owned Sub-Advisors. Applicants state that, accordingly, they believe the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:[8]

1. Before a Subadvised Series may rely on the order requested in the application, the operation of the Subadvised Series in the manner described in the application, including the hiring of Wholly-Owned Sub-Advisors, will be, or has been, approved by a majority of the Subadvised Series' outstanding voting securities as defined in the Act, or, in the case of a new Subadvised Series whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Subadvised Series' shares to the public.

2. The prospectus for each Subadvised Series will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Subadvised Series will hold itself out to the public as employing the multi-manager structure described in the application. Each prospectus will prominently disclose that the Manager has the ultimate responsibility, subject to oversight by the Board, to oversee the Sub-Advisors and recommend their hiring, termination and replacement.

3. The Manager will provide general management services to a Subadvised Series, including overall supervisory responsibility for the general management and investment of the Subadvised Series' assets. Subject to review and approval of the Board, the Manager will (a) set a Subadvised Series' overall investment strategies, (b) evaluate, select, and recommend Sub-Advisors to manage all or a portion of a Subadvised Series' assets, and (c) implement procedures reasonably designed to ensure that Sub-Advisors comply with a Subadvised Series' investment objective, policies and restrictions. Subject to review by the Board, the Manager will (a) when appropriate, allocate and reallocate a Subadvised Series' assets among multiple Sub-Advisors; and (b) monitor and evaluate the performance of Sub-Advisors.

4. A Subadvised Series will not make any Ineligible Sub-Advisor Changes without the approval of the shareholders of the applicable Subadvised Series.

5. Subadvised Series will inform shareholders of the hiring of a new Sub-Advisor within 90 days after the hiring of the new Sub-Advisor pursuant to the Modified Notice and Access Procedures.

6. At all times, at least a majority of the Board will be Independent Board Members, and the selection and nomination of new or additional Independent Board Members will be placed within the discretion of the then-existing Independent Board Members.

7. Independent Legal Counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Board Members. The selection of such counsel will be within the discretion of the then-existing Independent Board Members.

8. The Manager will provide the Board, no less frequently than quarterly, with information about the profitability of the Manager on a per Subadvised Series basis. The information will reflect the impact on profitability of the hiring

[8] Applicants will only comply with conditions 7, 8, 9 and 12 if they rely on the relief that would allow them to provide Aggregate Fee Disclosure.

or termination of any sub-advisor during the applicable quarter.

9. Whenever a sub-advisor is hired or terminated, the Manager will provide the Board with information showing the expected impact on the profitability of the Manager.

10. Whenever a sub-advisor change is proposed for a Subadvised Series with an Affiliated Sub-Advisor or a Wholly-Owned Sub-Advisor, the Board, including a majority of the Independent Board Members, will make a separate finding, reflected in the Board minutes, that such change is in the best interests of the Subadvised Series and its shareholders, and does not involve a conflict of interest from which the Manager or the Affiliated Sub-Advisor or Wholly-Owned Sub-Advisor derives an inappropriate advantage.

11. No Board member or officer of a Subadvised Series, or director or officer of the Manager, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Sub-Advisor, except for (a) ownership of interests in the Manager or any entity, other than a Wholly-Owned Sub-Advisor, that controls, is controlled by, or is under common control with the Manager, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-Advisor or an entity that controls, is controlled by, or is under common control with a Sub-Advisor.

12. Each Subadvised Series will disclose the Aggregate Fee Disclosure in its registration statement.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that requested in the application, the requested order will expire on the effective date of that rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21347 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30680; 812–14178]

Horizons ETFs Management (USA) LLC and Horizons ETF Trust; Notice of Application

August 27, 2013.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Horizons ETFs Management (USA) LLC ("Horizons") and Horizons ETF Trust (the "Trust").

SUMMARY OF APPLICATION: Applicants request an order that permits: (a) Actively-managed series of certain open-end management investment companies to issue shares ("Shares") redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

FILING DATES: The application was filed on July 17, 2013 and amended on August 27, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 23, 2013, 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.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Horizons and the Trust: Horizons ETFs Management (USA) LLC, One Bryant Park, 39th Floor, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876 or Mary Kay Frech, Branch Chief, at (202) 551–6814 (Division of Investment Management, Exemptive Applications Office).

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 for 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 a statutory trust organized under the laws of Delaware and will register with the Commission as an open-end management investment company. Applicants currently intend that the initial series of the Trust will be the Horizons Active Global Dividend ETF (the "Initial Fund"), which will seek long-term returns consisting of regular dividend income and modest long-term capital growth. The Initial Fund will invest primarily in equity securities listed on North American exchanges, including American Depositary Receipts ("ADRs"), and may also from time to time invest in preferred and fixed-income securities such as government bonds, corporate bonds, or treasury bills.

2. Horizons, a Delaware limited liability company registered with the Commission as an investment adviser under the Investment Adviser Act of 1940 ("Advisers Act"), will be the investment adviser to the Initial Fund. The Advisor (as defined below) may enter into sub-advisory agreements with investment advisers to act as sub-advisors with respect to the Funds (as defined below) (each a "Sub-Advisor"). Applicants state that any Sub-Advisor will be registered, or not subject to registration, under the Advisers Act. A registered broker-dealer ("Broker") under the Securities Exchange Act of 1934 (the "Exchange Act"), will be selected and approved by the Board (as defined below) to act as the distributor and principal underwriter of the Funds (the "Distributor").

3. Applicants request that the order apply to the Initial Fund and any future series of the Trust or of any other open-end management companies that may utilize active management investment strategies (collectively, "Future Funds"). Any Future Fund will (a) be advised by Horizons or an entity controlling, controlled by, or under

common control with Horizons (Horizons and each such other entity and any successor thereto included in the term "Advisor"),[1] and (b) comply with the terms and conditions of the application.[2] The Initial Fund and Future Funds together are the "Funds".[3] Each Fund will consist of a portfolio of securities (including fixed income securities and/or equity securities) and/or currencies traded in the U.S. and/or non-U.S. markets, and derivatives, other assets, and other investment positions ("Portfolio Instruments").[4] Funds may invest in "Depositary Receipts".[5] Each Fund will operate as an actively managed exchange-traded fund ("ETF").

4. Applicants request that any exemption under section 12(d)(1)(J) of the Act from sections 12(d)(1)(A) and (B) apply to: (i) Any Fund that is currently or subsequently part of the same "group of investment companies" as the Initial Fund within the meaning of section 12(d)(1)(G)(ii) of the Act; (ii) any principal underwriter for the Fund; (iii) any Brokers selling Shares of a Fund to an Investing Fund (as defined below); and (iv) each management investment company or unit investment trust registered under the Act that is not part of the same "group of investment companies" as the Funds, and that enters into a FOF Participation Agreement (as defined below) with a Fund (such management investment companies, "Investing Management Companies," such unit investment trusts, "Investing Trusts," and Investing Management Companies and Investing Trusts together, "Investing Funds"). Investing Funds do not include the Funds.[6]

5. Applicants anticipate that a Creation Unit will consist of at least 25,000 Shares. Applicants anticipate that the trading price of a Share will range from $10 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Distributor and the transfer agent of the Fund ("Authorized Participant") with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A Broker or other participant, in the Continuous Net Settlement System of the National Securities Clearing Corporation ("NSCC"), a clearing agency registered with the Commission and affiliated with the Depository Trust Company ("DTC"), or (b) a participant in the DTC ("DTC Participant").

6. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments ("Deposit Instruments"), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments ("Redemption Instruments").[7] On any given Business Day,[8] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the "Creation Basket." In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[9] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[10] or (c) TBA Transactions,[11] short positions and other positions that cannot be transferred in kind[12] will be excluded from the Creation Basket.[13] If there is a difference between NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the "Cash Amount").

7. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Funds holding non-U.S. investment ("Global Funds"), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or

[1] For the purposes of the requested order, a "successor" is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Advisor to a Future Fund will be registered as an investment adviser under the Advisers Act. All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[3] Applicants further request that the order apply to any future Distributor of the Funds, which would be a Broker and would comply with the terms and conditions of the application. The Distributor of any Fund may be an affiliated person of the Advisor and/or Sub-Advisors.

[4] If a Fund invests in derivatives, then (a) the board of trustees ("Board") of the Fund will periodically review and approve the Fund's use of derivatives and how the Advisor assesses and manages risk with respect to the Fund's use of derivatives and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[5] Depositary Receipts are typically issued by a financial institution, a "depositary", and evidence ownership in a security or pool of securities that have been deposited with the depositary. A Fund will not invest in any Depositary Receipts that the Advisor or Sub-Advisor deems to be illiquid or for which pricing information is not readily available. No affiliated persons of applicants, any Future Fund, any Advisor or any Sub-Advisor will serve as the depositary bank for any Depositary Receipts held by a Fund.

[6] An Investing Fund may rely on the order only to invest in Funds and not in any other registered investment company.

[7] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 ("Securities Act"). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[8] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a "Business Day").

[9] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's net asset value ("NAV") for that Business Day.

[10] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[11] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

[12] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[13] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Cash Amount (defined below).

other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[14]

8. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act ("Stock Exchange"), on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Stock Exchange will disseminate every 15 seconds throughout the trading day an amount representing, on a per Share basis, the sum of the current value of the Portfolio Instruments that were publicly disclosed prior to the commencement of trading in Shares on the Stock Exchange.

9. A Fund may recoup the settlement costs charged by NSCC and DTC by imposing a transaction fee on investors purchasing or redeeming Creation Units (the "Transaction Fee"). The Transaction Fee will be borne only by purchasers and redeemers of Creation Units and will be limited to amounts that have been determined appropriate by the Advisor to defray the transaction expenses that will be incurred by a Fund when an investor purchases or redeems Creation Units.[15] All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus ("Prospectus") to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

10. Shares will be listed and traded at negotiated prices on a Stock Exchange and traded in the secondary market. Applicants expect that Stock Exchange specialists or market makers ("Market Makers") will be assigned to Shares. The price of Shares trading on the Stock Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on the Stock Exchange will be subject to customary brokerage commissions and charges.

11. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Specialists or Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[16] Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[17] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

12. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund, or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant.

13. Neither the Trust nor any Fund will be marketed or otherwise held out as a "mutual fund." Instead, each Fund will be marketed as an "actively managed exchange-traded fund". In any advertising material where features of obtaining, buying or selling Shares traded on the Stock Exchange are described, there will be an appropriate statement to the effect that Shares are not individually redeemable.

14. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV ("Bid/Ask Price"), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund (including any short positions held in securities ("Short Positions")) that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[18]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from

[14] A "custom order" is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[15] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, the Transaction Fee will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[16] If Shares are listed on The NASDAQ Stock Market LLC ("Nasdaq") or a similar electronic Stock Exchange (including NYSE Arca), one or more member firms of that Stock Exchange will act as Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[17] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

[18] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, each Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for its NAV calculation at the end of such Business Day.

section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 2(a)(32) and 5(a)(1) of the Act

3. Section 5(a)(1) of the Act defines an "open-end company" as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund to redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of Creation Units of Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Portfolio Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 14 calendar days. Applicants therefore request relief from section 22(e) in order to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Instruments of each Global Fund customarily clear and settle, but in all cases no later than 14 calendar days following the tender of a Creation Unit.[19]

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 14 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state each Global Fund's statement of additional information ("SAI") will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not affect redemptions in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares 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 if the sale will cause more than 10% of the acquired company's voting stock to be

[19] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

owned by investment companies generally.

10. Applicants request relief to permit Investing Funds to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to Investing Funds in excess of the limits in section 12(d)(1)(B) of the Act. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

11. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company ("Investing Fund Advisor"), sponsor of an Investing Trust ("Sponsor"), any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Advisor, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor ("Investing Fund's Advisory Group") from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any sub-adviser to an Investing Management Company ("Investing Fund Sub-Advisor"), any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Advisor or any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor ("Investing Fund's Sub-Advisory Group").

12. Applicants propose a condition to ensure that no Investing Fund or Investing Fund Affiliate[20] (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting"). An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

13. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("independent directors or trustees"), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[21]

14. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

15. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds ("FOF Participation Agreement"). The FOF Participation Agreement will include an acknowledgement from the Investing Fund that it may rely on the order only to invest in a Fund and not in any other investment company.

Sections 17(a)(1) and (2) of the Act

16. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person ("second tier affiliate"), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines "affiliated person" to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Advisor and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Advisor (an "Affiliated Fund").

17. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[22] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Investing Funds of which

[20] An "Investing Fund Affiliate" is any Investing Fund Advisor, Investing Fund Sub-Advisor, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. "Fund Affiliate" is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

[21] Any reference to NASD Conduct Rule 2830 includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

[22] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because an investment adviser to the Funds is also an investment adviser to an Investing Fund.

the Funds are affiliated persons or second-tier affiliates.[23]

18. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Absent the unusual circumstances discussed in the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond *pro rata* to the Fund's Portfolio Instruments. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the relevant Funds, and the valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner and on the same terms for all, regardless of the identity of the purchaser or redeemer. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

19. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[24] The FOF Participation Agreement will require any Investing Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on a Stock Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Advisor or any Sub-Advisor, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Advisor or a person controlling, controlled by or under common control with the Investing Fund Sub-Advisor acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Advisor and any Investing Fund Sub-Advisor are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund

[23] Applicants expect most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to an Investing Fund and redemptions of those Shares. The requested relief is intended to also cover the in-kind transactions that may accompany such sales and redemptions.

[24] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of the Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Advisor, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Advisor, or Trustee or Sponsor, or an affiliated person of the Investing Fund Advisor, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Advisor, or Trustee, or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Advisor will waive fees otherwise payable to the Investing Fund Sub-Advisor, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Advisor, or an affiliated person of the Investing Fund Sub-Advisor, other than any advisory fees paid to the Investing Fund Sub-Advisor or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Advisor. In the event that the Investing Fund Sub-Advisor waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the Investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund relying on the section 12(d)(1) relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70274; File No. 4–631]

Joint Industry Plan; Notice of Filing of the Fifth Amendment to the National Market System Plan To Address Extraordinary Market Volatility by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

August 27, 2013.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act") [1] and Rule 608 thereunder,[2] notice is hereby given that, on July 18, 2013, NYSE Euronext, on behalf of New York Stock Exchange LLC ("NYSE"), NYSE MKT LLC ("NYSE MKT"), and NYSE Arca, Inc. ("NYSE Arca"), and the following parties to the National Market System Plan: BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, and National Stock Exchange, Inc. (collectively with NYSE, NYSE MKT, and NYSE Arca, the "Participants"), filed with the Securities and Exchange Commission (the "Commission") a proposal to amend the Plan to Address Extraordinary Market Volatility ("Plan").[3] The proposal represents the fifth amendment to the Plan ("Fifth Amendment"), and reflects changes unanimously approved by the Participants. The Fifth Amendment to the Plan: (i) Provides that, if a Trading Pause is triggered in the last ten minutes of trading before the end of Regular Trading Hours, then the NMS Stock shall not reopen for continuous trading and shall close pursuant to established closing procedures of the Primary Listing Exchange; and (ii) revises the definition of which Exchange Traded Products ("ETPs") are eligible to be included in the list of Tier 1 NMS Stocks under the Plan. A copy of the Plan, as proposed to be amended, is attached as Exhibit A hereto. The Commission is publishing this notice to solicit comments from interested persons on the Fifth Amendment to the Plan.

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from Janet M. McGinness, Executive Vice President & Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated July 17, 2013 ("Transmittal Letter").

I. Rule 608(a) of Regulation NMS

A. Purpose of the Plan

The Participants filed the Plan in order to create a market-wide limit up-limit down mechanism that is intended to address extraordinary market volatility in "NMS Stocks," as defined in Rule 600(b)(47) of Regulation NMS under the Act.[4] The Plan sets forth procedures that provide for market-wide limit up-limit down requirements that would be designed to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands.[5] These limit up-limit down requirements would be coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

As set forth in Section V of the Plan, the price bands would consist of a Lower Price Band and an Upper Price Band for each NMS Stock.[6] The price bands would be calculated by the Securities Information Processors ("SIPs" or "Processors") responsible for consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Act.[7] Those price bands would be based on a Reference Price [8] for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period. The price bands for an NMS Stock would be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter [9] below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. Between 9:30 a.m. and 9:45 a.m. ET and 3:35 p.m. and 4:00 p.m. ET, the price bands would be calculated by applying double the Percentage Parameters.

The Processors would also calculate a Pro-Forma Reference Price for each NMS Stock on a continuous basis during Regular Trading Hours. If a Pro-Forma Reference Price did not move by one percent or more from the Reference Price in effect, no new price bands would be disseminated, and the current Reference Price would remain the effective Reference Price. If the Pro-Forma Reference Price moved by one percent or more from the Reference Price in effect, the Pro-Forma Reference Price would become the Reference Price, and the Processors would disseminate new price bands based on the new Reference Price. Each new Reference Price would remain in effect for at least 30 seconds.

When one side of the market for an individual security is outside the applicable price band, the Processors would be required to disseminate such National Best Bid [10] or National Best Offer [11] with an appropriate flag identifying it as non-executable. When the other side of the market reaches the applicable price band, the market for an individual security would enter a Limit State,[12] and the Processors would be required to disseminate such National Best Offer or National Best Bid with an appropriate flag identifying it as a Limit State Quotation.[13] All trading would immediately enter a Limit State if the National Best Offer equals the Lower Limit Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Limit Band and does not cross the National Best Offer. Trading for an NMS Stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State

[4] 17 CFR 242.600(b)(47). *See also* Section I(H) of the Plan.

[5] *See* Section V of the Plan.

[6] Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Plan. *See* Exhibit A, *infra*.

[7] 17 CFR 242.603(b). The Plan refers to this entity as the Processor.

[8] *See* Section I(T) of the Plan.

[9] As initially proposed by the Participants, the Percentage Parameters for Tier 1 NMS Stocks (*i.e.*, stocks in the S&P 500 Index or Russell 1000 Index and certain ETPs) with a Reference Price of $1.00 or more would be five percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for Tier 2 NMS Stocks (*i.e.*, all NMS Stocks other than those in Tier 1) with a Reference Price of $1.00 or more would be 10 percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP would be the applicable Percentage Parameter set forth above multiplied by the leverage ratio of such product. On May 24, 2012, the Participants amended the Plan to create a 20% price band for Tier 1 and Tier 2 stocks with a Reference Price of $0.75 or more and up to and including $3.00. The Percentage Parameter for stocks with a Reference Price below $0.75 would be the lesser of (a) $0.15 or (b) 75 percent. *See* Letter from Janet M. McGinness, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated May 24, 2012 ("First Amendment").

[10] 17 CFR 242.600(b)(42). *See also* Section I(G) of the Plan.

[11] *Id.*

[12] A stock enters the Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer. *See* Section VI(B) of the Plan.

[13] *See* Section I(D) of the Plan.

Quotations were executed or canceled in their entirety. If the market did not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause, which would be applicable to all markets trading the security.

These limit up-limit down requirements would be coupled with trading pauses [14] to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). As set forth in more detail in the Plan, all trading centers [15] in NMS Stocks, including both those operated by Participants and those operated by members of Participants, would be required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

Under the Plan, all trading centers would be required to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processors would disseminate an offer below the Lower Price Band or bid above the Upper Price Band that nevertheless inadvertently may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; such bid or offer would not be included in National Best Bid or National Best Offer calculations. In addition, all trading centers would be required to develop, maintain, and enforce policies and procedures reasonably designed to prevent trades at prices outside the price bands, with the exception of single-priced opening, reopening, and closing transactions on the Primary Listing Exchange.

As stated by the Participants in the Plan, the limit up-limit down mechanism is intended to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks,[16] thereby protecting investors and promoting a fair and orderly market.[17] In particular, the Plan is designed to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010.[18]

The following summarizes the Fifth Amendment to the Plan and the rationale behind those changes:

1. Proposed Amendment to Section VII(C)

The Participants propose to amend Section VII(C)(1) of the Plan to provide that if a Trading Pause is declared for an NMS Stock in the last ten minutes of trading before the end of Regular Trading Hours, the Primary Listing Exchange shall not reopen for trading and shall attempt to execute a closing transaction using its established closing procedures. Section VII(C) of the Plan currently addresses only the situation of when a Trading Pause is declared less than five minutes before the end of Regular Trading Hours. In such case, because a Trading Pause is a minimum of five minutes and trading would not reopen, the Plan contemplates that the Primary Listing Exchange shall attempt a closing transaction using its established closing procedures.

Based on feedback from SIFMA and other market participants, the Participants believe it is appropriate to amend the Plan to provide that if a Trading Pause is declared in the last ten minutes of trading before the end of Regular Trading Hours, the Primary Listing Exchange shall not reopen the NMS Stock for trading. Rather, such stock shall remain in a Trading Pause state, and at the end of regular trading hours, the Primary Listing Exchange shall attempt to close the NMS Stock using its established closing procedures.

The Participants note that SIFMA raised issues concerning how the Plan operates at the close in its comment letter on the initial filing of the Plan.[19] Based on additional concerns recently raised by SIFMA regarding its members' ability to effectively participate in the closing transaction if there is a Trading Pause declared near the close of trading and then reopening of continuous trading shortly before the close, the Participants propose a modified approach to how the Plan operates near the close. As currently provided for, the Participants believe that the manner by which Trading Pauses are declared should not change, meaning that a Trading Pause could be triggered up to the close of trading. The Participants note that the Plan already contemplates additional volatility near the close by providing for the doubling of the Percentage Parameters in the last 25 minutes of trading (see Section V(A)(1) of the Plan). The Participants propose to modify the Plan, however, to provide that if a Trading Pause were to be declared in the last ten minutes of Regular Trading Hours, the Primary Listing Exchange would not reopen for continuous trading but rather would close the NMS Stock pursuant to established closing procedures.

The Participants believe that the proposed amendment meets the goals of the Plan, which is to address extraordinary market volatility. Specifically, the Participants believe that reopening trading within five minutes of the closing transaction could introduce additional volatility into trading for that particular symbol. The Participants believe it would be more prudent to use the time during the Trading Pause and the period preceding the end of Regular Trading Hours for interest to be entered for the closing auction, rather than to hold a reopening auction that would be followed shortly by a closing auction. Holding two auctions so near in time may introduce additional uncertainty into the market as market participants may not want to enter interest for a reopening auction if the security is going to close shortly thereafter. This could cause price dislocations, uncertainty of executions, and added confusion during an already volatile period. As such, the Participants note that certain Primary Listing Exchanges will be filing rule changes with the Commission to update their respective closing procedures to address the ability to permit additional interest to be entered for the purpose of a closing auction if there is a Trading Pause declared near the end of Regular Trading Hours.

2. Proposed Amendment to Section I of Appendix A

The Participants propose to amend Section I of Appendix A of the Plan to revise the definition of which ETPs are eligible to be included in the list of Tier 1 NMS Stocks under the Plan by deleting the following language: "To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion,

[14] The primary listing market would declare a trading pause in an NMS Stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS Stock could occur during the trading pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

[15] As defined in Section I(X) of the Plan, a trading center shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Act.

[16] 17 CFR 242.600(b)(47).

[17] *See* Transmittal Letter, *supra* note 3.

[18] The limit up-limit down mechanism set forth in the Plan would replace the existing single-stock circuit breaker pilot. *See e.g.*, Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025); 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033).

[19] *See* Letter from Ann L. Vlcek, Managing Director and Associated General Counsel, SIFMA, to Elizabeth M. Murphy, Secretary, Commission dated June 22, 2011.

will be deemed-eligible to be included as a Tier 1 NMS Stock."

The current definition of which ETPs are eligible to be included in the list of Tier 1 NMS Stocks under the Plan is based on a definition that was adopted in 2010 in connection with which ETPs were eligible for the pilot program for single-stock trading pauses ("trading pause pilot rules").[20] The goal of the 2010 amendment was to add more liquid ETPs, specifically, those with a minimum average daily volume ("ADV") of $2,000,000, to the list of securities eligible for the trading pause pilot rules because those ETPs tend to have similar trading characteristics as securities in the S&P 500 Index and Russell 1000 Index, and therefore using the 10% threshold for triggering a trading pause for those specified ETPs was appropriate. To assure that related ETPs were subject to a comparable circuit breaker, ETPs that did not meet the $2,000,000 ADV threshold, but tracked similar stocks and indices as ETPs meeting the volume criterion, were also included.

Based on experience to date with the Plan, the Participants believe that ETPs that do not meet the volume criterion are not as actively traded as other NMS Stocks included as Tier 1 NMS Stocks, and therefore the applicable Percentage Parameters are too narrow for such ETPs, even if they track the same index as an ETP that meets the volume criterion. The Participants note that this issue did not arise under the trading pause pilot rules because of the differing mechanisms for triggering a trading pause pursuant to the Plan and the trading pause pilot rules. Under the trading pause pilot rules, a trading pause is triggered if the last consolidated sale price of the security moves 10% or more over a five-minute period. Because a transaction is required before a trading pause may be triggered, a thinly traded stock may not have triggered any trading pauses.

In contrast, under the Plan, a bid or offer that crosses the applicable Price Band can result first in a Limit State Quotation, and if that Limit State Quotation is not exited within 15 seconds, a Trading Pause. Therefore, under the Plan, a transaction does not need to occur before a Trading Pause can be triggered. Based on experience thus far with the Plan, certain thinly traded ETPs with wide quotes that are included as Tier 1 NMS Stocks because they track an index of an ETP that meets the volume criterion are triggering trading pauses because of bids or offers that cross the Price Band rather than because of an execution of a security. This results in certain ETPs that have not traded during the day triggering Trading Pauses and requiring a reopening auction process, despite the lack of trading in that security. For example, since the initial date of Plan operations through to July 8, 2013, there have been 32 Trading Pauses in NYSE Arca-listed securities triggered pursuant to the Plan. These Trading Pauses have been in only ten NMS Stocks,[21] some more than once a day, and all are ETPs with less than $2,000,000 notional ADV.

The Participants believe that amending the Plan to delete ETPs that do not meet the volume criterion from the definition of Tier 1 NMS Stocks is necessary for the maintenance of a fair and orderly market and removes impediments to and perfects the mechanism of a national market system because it reduces the potential for a thinly-traded NMS Stock that has not experienced any trading volatility to be halted and then have to go through a reopening auction process. The Participants therefore believe that the proposed amendment supports the original purpose of the Plan, which is to reduce extraordinary market volatility for NMS Stocks. The Participants believe that such thinly-traded ETPs are better suited for the applicable Percentage Parameters for NMS Stocks that are not S&P 500 or Russell 1000 stocks, which includes other thinly traded securities.

The Participants will continue to assess during Plan operations whether the existing Percentage Parameters are appropriate for thinly-traded NMS Stocks, and will have more experience with this issue after Phase II of the Plan has been implemented across all NMS Stocks. In the meantime, the Participants believe that amending the Plan to revise the Percentage Parameters that will be applicable to ETPs with less than $2,000,000 notional ADV is an appropriate measure based on experience with the Plan to date.

B. Governing or Constituent Documents

The governing documents of the Processor, as defined in Section I(P) of the Plan, will not be affected by the Plan, but once the Plan is implemented, the Processor's obligations will change, as set forth in detail in the Plan.

C. Implementation of Plan

The initial date of the Plan operations was April 8, 2013.

D. Development and Implementation Phases

The Plan will be implemented as a one-year pilot program in two Phases, consistent with Section VIII of the Plan: Phase I of Plan implementation began on April 8, 2013 and was completed on May 3, 2013. The Participants currently anticipate that Phase II of Plan implementation will begin on August 5, 2013.

The Participants propose that if this amendment is approved before August 5, 2013, ETPs that currently meet the definition of Tier 1 NMS Stocks and have already been added to the Plan pursuant to Phase I of the Plan, but that would not meet the proposed amended definition of Tier 1 NMS Stocks will no longer participate in Phase I of the Plan. Instead, those ETPs will be added to the Plan pursuant to Phase II of the Plan implementation. If approved after August 5, 2013 but during Phase II of the Plan implementation, those ETPs will be added to the Phase II implementation schedule. If approved after Phase II of the Plan has been fully implemented, the Primary Listing Exchange will provide notice via Trader Update within 30 days of approval of this amendment of when those ETPs will be moved to the new Percentage Parameter.

E. Analysis of Impact on Competition

The Participants do not believe that the Plan imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Participants also do not believe that the Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.[22]

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

The Participants state that they have no written understandings or agreements relating to interpretation of the Plan. Section II(C) of the Plan sets forth how any entity registered as a national securities exchange or national securities association may become a Participant.

[20] *See* Securities Exchange Act Release No. 62884 (Sept. 10, 2010), 75 FR 56618 (Sept. 16, 2010) (SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–ISE–2010–66; SR–NASDAQ–2010–079; SR–NYSE–2010–49; SR–NYSEAmex–2010–63; SR–NYSEArca–2010–61; SR–NSX–2010–08) (Order approving amendment to pilot rule for trading pauses due to extraordinary volatility to expand the availability of the rule to Russell 1000 Index and specified ETPs).

[21] The symbols are BXDB, BDG, GIY, VIOO, BOS, SAGG, IELG, IESM, HUSE, and GMTB.

[22] 15 U.S.C. 78k–1(c)(1)(D).

G. Approval of Amendment of the Plan

Each of the Plan's Participants has executed a written amended Plan.

H. Terms and Conditions of Access

Section II(C) of the Plan provides that any entity registered as a national securities exchange or national securities association under the Act may become a Participant by: (1) Becoming a participant in the applicable Market Data Plans, as defined in Section I(F) of the Plan; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

I. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

J. Method and Frequency of Processor Evaluation

Not applicable.

K. Dispute Resolution

The Plan does not include specific provisions regarding resolution of disputes between or among Participants. Section III(C) of the Plan provides for each Participant to designate an individual to represent the Participant as a member of an Operating Committee.[23] No later than the initial date of the Plan, the Operating Committee would be required to designate one member of the Operating Committee to act as the Chair of the Operating Committee. The Operating Committee shall monitor the procedures established pursuant to the Plan and advise the Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate. Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the Commission as a request for an amendment to the Plan initiated by the Commission under Rule 608 of Regulation NMS under the Act.[24]

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Fifth Amendment to the Plan 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 4–631 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 4–631. 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 Fifth Amendment to the Plan that are filed with the Commission, and all written communications relating to the Fifth Amendment to the Plan 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 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the Participants' principal 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 4–631 and should be submitted on or before September 24, 2013.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

EXHIBIT A

Proposed new language is *italicized;* proposed deletions are in [brackets].

PLAN TO ADDRESS EXTRAORDINARY MARKET VOLATILITY SUBMITTED TO THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 608 OF REGULATION NMS UNDER THE SECURITIES EXCHANGE ACT OF 1934

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Preamble

The Participants submit to the SEC this Plan establishing procedures to address extraordinary volatility in NMS Stocks. The procedures provide for market-wide limit up-limit down requirements that prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses to accommodate more fundamental price

[23] *See* Section I(J) of the Plan.

[24] 17 CFR 242.608.

moves. The Plan procedures are designed, among other things, to protect investors and promote fair and orderly markets. The Participants developed this Plan pursuant to Rule 608(a)(3) of Regulation NMS under the Exchange Act, which authorizes the Participants to act jointly in preparing, filing, and implementing national market system plans.

I. Definitions

(A) "Eligible Reported Transactions" shall have the meaning prescribed by the Operating Committee and shall generally mean transactions that are eligible to update the last sale price of an NMS Stock.

(B) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(C) "Limit State" shall have the meaning provided in Section VI of the Plan.

(D) "Limit State Quotation" shall have the meaning provided in Section VI of the Plan.

(E) "Lower Price Band" shall have the meaning provided in Section V of the Plan.

(F) "Market Data Plans" shall mean the effective national market system plans through which the Participants act jointly to disseminate consolidated information in compliance with Rule 603(b) of Regulation NMS under the Exchange Act.

(G) "National Best Bid" and "National Best Offer" shall have the meaning provided in Rule 600(b)(42) of Regulation NMS under the Exchange Act.

(H) "NMS Stock" shall have the meaning provided in Rule 600(b)(47) of Regulation NMS under the Exchange Act.

(I) "Opening Price" shall mean the price of a transaction that opens trading on the Primary Listing Exchange, or, if the Primary Listing Exchange opens with quotations, the midpoint of those quotations.

(J) "Operating Committee" shall have the meaning provided in Section III(C) of the Plan.

(K) "Participant" means a party to the Plan.

(L) "Plan" means the plan set forth in this instrument, as amended from time to time in accordance with its provisions.

(M) "Percentage Parameter" shall mean the percentages for each tier of NMS Stocks set forth in Appendix A of the Plan.

(N) "Price Bands" shall have the meaning provided in Section V of the Plan.

(O) "Primary Listing Exchange" shall mean the Participant on which an NMS Stock is listed. If an NMS Stock is listed on more than one Participant, the Participant on which the NMS Stock has been listed the longest shall be the Primary Listing Exchange.

(P) "Processor" shall mean the single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act.

(Q) "Pro-Forma Reference Price" shall have the meaning provided in Section V(A)(2) of the Plan.

(R) "Regular Trading Hours" shall have the meaning provided in Rule 600(b)(64) of Regulation NMS under the Exchange Act. For purposes of the Plan, Regular Trading Hours can end earlier than 4:00 p.m. ET in the case of an early scheduled close.

(S) "Regulatory Halt" shall have the meaning specified in the Market Data Plans.

(T) "Reference Price" shall have the meaning provided in Section V of the Plan.

(U) "Reopening Price" shall mean the price of a transaction that reopens trading on the Primary Listing Exchange following a Trading Pause or a Regulatory Halt, or, if the Primary Listing Exchange reopens with quotations, the midpoint of those quotations.

(V) "SEC" shall mean the United States Securities and Exchange Commission.

(W) "Straddle State" shall have the meaning provided in Section VII(A)(2) of the Plan.

(X) "Trading center" shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Exchange Act.

(Y) "Trading Pause" shall have the meaning provided in Section VII of the Plan.

(Z) "Upper Price Band" shall have the meaning provided in Section V of the Plan.

II. *Parties*

(A) *List of Parties*

The parties to the Plan are as follows:

(1) BATS Exchange, Inc. 8050 Marshall Drive Lenexa, Kansas 66214
(2) BATS Y-Exchange, Inc. 8050 Marshall Drive Lenexa, Kansas 66214
(3) Chicago Board Options Exchange, Incorporated 400 South LaSalle Street Chicago, Illinois 60605
(4) Chicago Stock Exchange, Inc. 440 South LaSalle Street Chicago, Illinois 60605
(5) EDGA Exchange, Inc. 545 Washington Boulevard Sixth Floor Jersey City, NJ 07310
(6) EDGX Exchange, Inc. 545 Washington Boulevard Sixth Floor Jersey City, NJ 07310
(7) Financial Industry Regulatory Authority, Inc. 1735 K Street NW., Washington, DC 20006
(8) NASDAQ OMX BX, Inc. One Liberty Plaza New York, New York 10006
(9) NASDAQ OMX PHLX LLC 1900 Market Street Philadelphia, Pennsylvania 19103
(10) The Nasdaq Stock Market LLC 1 Liberty Plaza 165 Broadway New York, NY 10006
(11) National Stock Exchange, Inc. 101 Hudson, Suite 1200 Jersey City, NJ 07302
(12) New York Stock Exchange LLC 11 Wall Street New York, New York 10005
(13) NYSE MKT LLC 20 Broad Street New York, New York 10005
(14) NYSE Arca, Inc. 100 South Wacker Drive Suite 1800 Chicago, IL 60606

(B) *Compliance Undertaking*

By subscribing to and submitting the Plan for approval by the SEC, each Participant agrees to comply with and to enforce compliance, as required by Rule 608(c) of Regulation NMS under the Exchange Act, by its members with the provisions of the Plan. To this end, each Participant shall adopt a rule requiring compliance by its members with the provisions of the Plan, and each Participant shall take such actions as are necessary and appropriate as a participant of the Market Data Plans to cause and enable the Processor for each NMS Stock to fulfill the functions set forth in this Plan.

(C) *New Participants*

The Participants agree that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) Becoming a participant in the applicable Market Data Plans; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

(D) *Advisory Committee*

(1) *Formation.* Notwithstanding other provisions of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance with the provisions set forth in this section.

(2) *Composition.* Members of the Advisory Committee shall be selected for two-year terms as follows:

(A) *Advisory Committee Selections.* By affirmative vote of a majority of the Participants, the Participants shall select at least one representatives from each of

the following categories to be members of the Advisory Committee: (1) A broker-dealer with a substantial retail investor customer base; (2) a broker-dealer with a substantial institutional investor customer base; (3) an alternative trading system; (4) a broker-dealer that primarily engages in trading for its own account; and (5) an investor.

(3) *Function.* Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, proposed material amendments to the Plan.

(4) *Meetings and Information.* Members of the Advisory Committee shall have the right to attend meetings of the Operating Committee and to receive any information concerning Plan matters; provided, however, that the Operating Committee may meet in executive session if, by affirmative vote of a majority of the Participants, the Operating Committee determines that an item of Plan business requires confidential treatment.

III. *Amendments to Plan*

(A) *General Amendments*

Except with respect to the addition of new Participants to the Plan, any proposed change in, addition to, or deletion from the Plan shall be effected by means of a written amendment to the Plan that: (1) Sets forth the change, addition, or deletion; (2) is executed on behalf of each Participant; and, (3) is approved by the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act, or otherwise becomes effective under Rule 608 of Regulation NMS under the Exchange Act.

(B) *New Participants*

With respect to new Participants, an amendment to the Plan may be effected by the new national securities exchange or national securities association executing a copy of the Plan, as then in effect (with the only changes being the addition of the new Participant's name in Section II(A) of the Plan) and submitting such executed Plan to the SEC for approval. The amendment shall be effective when it is approved by the SEC in accordance with Rule 608 of Regulation NMS under the Exchange Act or otherwise becomes effective pursuant to Rule 608 of Regulation NMS under the Exchange Act.

(C) *Operating Committee*

(1) Each Participant shall select from its staff one individual to represent the Participant as a member of an Operating Committee, together with a substitute for such individual. The substitute may participate in deliberations of the Operating Committee and shall be considered a voting member thereof only in the absence of the primary representative. Each Participant shall have one vote on all matters considered by the Operating Committee. No later than the initial date of Plan operations, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee.

(2) The Operating Committee shall monitor the procedures established pursuant to this Plan and advise the Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate. The Operating Committee shall establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of this Plan and the Appendixes thereto. With respect to matters in this paragraph, Operating Committee decisions shall be approved by a simple majority vote.

(3) Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the SEC as a request for an amendment to the Plan initiated by the Commission under Rule 608 of Regulation NMS.

IV. *Trading Center Policies and Procedures*

All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up—limit down requirements specified in Sections VI of the Plan, and to comply with the Trading Pauses specified in Section VII of the Plan.

V. *Price Bands*

(A) *Calculation and Dissemination of Price Bands*

(1) The Processor for each NMS stock shall calculate and disseminate to the public a Lower Price Band and an Upper Price Band during Regular Trading Hours for such NMS Stock. The Price Bands shall be based on a Reference Price for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS stock over the immediately preceding five-minute period (except for periods following openings and reopenings, which are addressed below). If no Eligible Reported Transactions for the NMS Stock have occurred over the immediately preceding five-minute period, the previous Reference Price shall remain in effect. The Price Bands for an NMS Stock shall be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. The Price Bands shall be calculated during Regular Trading Hours. Between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET, or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, the Price Bands shall be calculated by applying double the Percentage Parameters set forth in Appendix A. If a Reopening Price does not occur within ten minutes after the beginning of a Trading Pause, the Price Band, for the first 30 seconds following the reopening after that Trading Pause, shall be calculated by applying triple the Percentage Parameters set forth in Appendix A.

(2) The Processor shall calculate a Pro-Forma Reference Price on a continuous basis during Regular Trading Hours, as specified in Section V(A)(1) of the Plan. If a Pro-Forma Reference Price has not moved by 1% or more from the Reference Price currently in effect, no new Price Bands shall be disseminated, and the current Reference Price shall remain the effective Reference Price. When the Pro-Forma Reference Price has moved by 1% or more from the Reference Price currently in effect, the Pro-Forma Reference Price shall become the Reference Price, and the Processor shall disseminate new Price Bands based on the new Reference Price; provided, however, that each new Reference Price shall remain in effect for at least 30 seconds.

(B) *Openings*

(1) Except when a Regulatory Halt is in effect at the start of Regular Trading Hours, the first Reference Price for a trading day shall be the Opening Price on the Primary Listing Exchange in an NMS Stock if such Opening Price occurs less than five minutes after the start of Regular Trading Hours. During the period less than five minutes after the Opening Price, a Pro-Forma Reference Price shall be updated on a continuous basis to be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock during the period following the Opening Price (including the Opening Price), and if it differs from the current Reference Price by 1% or more shall become the new Reference Price,

except that a new Reference Price shall remain in effect for at least 30 seconds. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) If the Opening Price on the Primary Listing Exchange in an NMS Stock does not occur within five minutes after the start of Regular Trading Hours, the first Reference Price for a trading day shall be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(C) *Reopenings*

(1) Following a Trading Pause in an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the next Reference Price shall be the Reopening Price on the Primary Listing Exchange if such Reopening Price occurs within ten minutes after the beginning of the Trading Pause, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Reopening Price does not occur within ten minutes after the beginning of the Trading Pause, the first Reference Price following the Trading Pause shall be equal to the last effective Reference Price before the Trading Pause. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) Following a Regulatory Halt, the next Reference Price shall be the Opening or Reopening Price on the Primary Listing Exchange if such Opening or Reopening Price occurs within five minutes after the end of the Regulatory Halt, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Opening or Reopening Price has not occurred within five minutes after the end of the Regulatory Halt, the Reference Price shall be equal to the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

VI. *Limit Up-Limit Down Requirements*

(A) *Limitations on Trades and Quotations Outside of Price Bands*

(1) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Lower Price Band or above the Upper Price Band for an NMS Stock. Single-priced opening, reopening, and closing transactions on the Primary Listing Exchange, however, shall be excluded from this limitation. In addition, any transaction that both (i) does not update the last sale price (except if solely because the transaction was reported late or because the transaction was an odd-lot sized transaction), and (ii) is excepted or exempt from Rule 611 under Regulation NMS shall be excluded from this limitation.

(2) When a National Best Bid is below the Lower Price Band or a National Best Offer is above the Upper Price Band for an NMS Stock, the Processor shall disseminate such National Best Bid or National Best Offer with an appropriate flag identifying it as non-executable. When a National Best Offer is equal to the Lower Price Band or a National Best Bid is equal to the Upper Price Band for an NMS Stock, the Processor shall distribute such National Best Bid or National Best Offer with an appropriate flag identifying it as a "Limit State Quotation".

(3) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processor shall disseminate an offer below the Lower Price Band or bid above the Upper Price Band that may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; provided, however, that any such bid or offer shall not be included in National Best Bid or National Best Offer calculations.

(B) *Entering and Exiting a Limit State*

(1) All trading for an NMS Stock shall immediately enter a Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer.

(2) When trading for an NMS Stock enters a Limit State, the Processor shall disseminate this information by identifying the relevant quotation (*i.e.*, a National Best Offer that equals the Lower Price Band or a National Best Bid that equals the Upper Price Band) as a Limit State Quotation. At this point, the Processor shall cease calculating and disseminating updated Reference Prices and Price Bands for the NMS Stock until either trading exits the Limit State or trading resumes with an opening or reopening as provided in Section V.

(3) Trading for an NMS Stock shall exit a Limit State if, within 15 seconds of entering the Limit State, the entire size of all Limit State Quotations are executed or cancelled.

(4) If trading for an NMS Stock exits a Limit State within 15 seconds of entry, the Processor shall immediately calculate and disseminate updated Price Bands based on a Reference Price that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period (including the period of the Limit State).

(5) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry, the Limit State will terminate when the Primary Listing Exchange declares a Trading Pause pursuant to Section VII of the Plan or at the end of Regular Trading Hours.

VII. *Trading Pauses*

(A) *Declaration of Trading Pauses*

(1) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry during Regular Trading Hours, then the Primary Listing Exchange shall declare a Trading Pause for such NMS Stock and shall notify the Processor.

(2) The Primary Listing Exchange may also declare a Trading Pause for an NMS Stock when an NMS Stock is in a Straddle State, which is when National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State, and trading in that NMS Stock deviates from normal trading characteristics such that declaring a Trading Pause would support the Plan's goal to address extraordinary market volatility. The Primary Listing Exchange shall develop policies and procedures for determining when it would declare a Trading Pause in such circumstances. If a Trading Pause is declared for an NMS Stock under this provision, the Primary Listing Exchange shall notify the Processor.

(3) The Processor shall disseminate Trading Pause information to the public. No trades in an NMS Stock shall occur during a Trading Pause, but all bids and offers may be displayed.

(B) *Reopening of Trading During Regular Trading Hours*

(1) Five minutes after declaring a Trading Pause for an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the Primary Listing Exchange shall attempt to reopen trading using its established reopening procedures. The Trading Pause shall end when the Primary

Listing Exchange reports a Reopening Price.

(2) The Primary Listing Exchange shall notify the Processor if it is unable to reopen trading in an NMS Stock for any reason other than a significant order imbalance and if it has not declared a Regulatory Halt. The Processor shall disseminate this information to the public, and all trading centers may begin trading the NMS Stock at this time.

(3) If the Primary Listing Exchange does not report a Reopening Price within ten minutes after the declaration of a Trading Pause in an NMS Stock, and has not declared a Regulatory Halt, all trading centers may begin trading the NMS Stock.

(4) When trading begins after a Trading Pause, the Processor shall update the Price Bands as set forth in Section V(C)(1) of the Plan.

(C) *Trading Pauses Within [Five] Ten Minutes of the End of Regular Trading Hours*

(1) If a Trading Pause for an NMS Stock is declared [less than five minutes] *in the last ten minutes of trading* before the end of Regular Trading Hours, the Primary Listing Exchange shall *not reopen trading and shall* attempt to execute a closing transaction using its established closing procedures. All trading centers may begin trading the NMS Stock when the Primary Listing Exchange executes a closing transaction.

(2) If the Primary Listing Exchange does not execute a closing transaction within five minutes after the end of Regular Trading Hours, all trading centers may begin trading the NMS Stock.

VIII. *Implementation*

The initial date of Plan operations shall be April 8, 2013.

(A) *Phase I*

(1) On the initial date of Plan operations, Phase I of Plan implementation shall begin in select symbols from the Tier 1 NMS Stocks identified in Appendix A of the Plan.

(2) Three months after the initial date of Plan operations, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply to all Tier 1 NMS Stocks identified in Appendix A of the Plan.

(3) During Phase I, the first Price Bands for a trading day shall be calculated and disseminated 15 minutes after the start of Regular Trading Hours as specified in Section (V)(A) of the Plan. No Price Bands shall be calculated and disseminated and therefore trading shall not enter a Limit State less than 30 minutes before the end of Regular Trading Hours.

(B) *Phase II—Full Implementation*

Eight months after the initial date of Plan operations, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply (i) to all NMS Stocks; and (ii) beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close.

(C) *Pilot*

The Plan shall be implemented on a one-year pilot basis.

IX. *Withdrawal From Plan*

If a Participant obtains SEC approval to withdraw from the Plan, such Participant may withdraw from the Plan at any time on not less than 30 days' prior written notice to each of the other Participants. At such time, the withdrawing Participant shall have no further rights or obligations under the Plan.

X. *Counterparts and Signatures*

The Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

IN WITNESS THEREOF, this Plan has been executed as of the __day of July 2013 by each of the parties hereto.

BATS EXCHANGE, INC.
BY: _____

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED
BY: _____

EDGA EXCHANGE, INC.
BY: _____

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.
BY: _____

NASDAQ OMX PHLX LLC
BY: _____

NATIONAL STOCK EXCHANGE, INC.
BY: _____

NYSE MKT LLC
BY: _____

BATS Y–EXCHANGE, INC.
BY: _____

CHICAGO STOCK EXCHANGE, INC.
BY: _____

EDGX EXCHANGE, INC.
BY: _____

NASDAQ OMX BX, INC.
BY: _____

THE NASDAQ STOCK MARKET LLC
BY: _____

NEW YORK STOCK EXCHANGE LLC
BY: _____

NYSE ARCA, INC.
BY: _____

Appendix A—Percentage Parameters

I. *Tier 1 NMS Stocks*

(1) Tier 1 NMS Stocks shall include all NMS Stocks included in the S&P 500 Index, the Russell 1000 Index, and the exchange-traded products ("ETP") listed on Schedule 1 to this Appendix. Schedule 1 to the Appendix will be reviewed and updated semi-annually based on the fiscal year by the Primary Listing Exchange to add ETPs that meet the criteria, or delete ETPs that are no longer eligible. To determine eligibility for an ETP to be included as a Tier 1 NMS Stock, all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures will be identified. Leveraged ETPs will be excluded and the list will be sorted by notional consolidated average daily volume ("CADV"). The period used to measure CADV will be from the first day of the previous fiscal half year up until one week before the beginning of the next fiscal half year. Daily volumes will be multiplied by closing prices and then averaged over the period. ETPs, including inverse ETPs, that trade over $2,000,000 CADV will be eligible to be included as a Tier 1 NMS Stock. [To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion, will be deemed eligible to be included as a Tier 1 NMS Stock.] The semi-annual updates to Schedule 1 do not require an amendment to the Plan. The Primary Listing Exchanges will maintain the updated Schedule 1 on their respective Web sites.

(2) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price more than $3.00 shall be 5%.

(3) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00 shall be 20%.

(4) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price less than $0.75 shall be the lesser of (a) $0.15 or (b) 75%.

(5) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary

Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

II. *Tier 2 NMS Stocks*

(1) Tier 2 NMS Stocks shall include all NMS Stocks other than those in Tier 1, provided, however, that all rights and warrants are excluded from the Plan.

(2) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price more than $3.00 shall be 10%.

(3) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00 shall be 20%.

(4) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price less than $0.75 shall be the lesser of (a) $0.15 or (b) 75%.

(5) Notwithstanding the foregoing, the Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP shall be the applicable Percentage Parameter set forth in clauses (2), (3), or (4) above, multiplied by the leverage ratio of such product.

(6) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

Appendix A—Schedule 1

Ticker	Name	Primary Exchange
AAXJ	iShares MSCI All Country Asia ex Japan Index Fund	NASDAQ GM
ACWI	iShares MSCI ACWI Index Fund	NASDAQ GM
ACWV	iShares MSCI All Country World Minimum Volatility Index Fund	NYSE Arca
ACWX	iShares MSCI ACWI ex US Index Fund	NASDAQ GM
AGG	iShares Core Total US Bond Market ETF	NYSE Arca
AGOL	ETFS Asian Gold Trust	NYSE Arca
AGZ	iShares Barclays Agency Bond Fund	NYSE Arca
ALD	WisdomTree Asia Local Debt Fund	NYSE Arca
AMJ	JPMorgan Alerian MLP Index ETN	NYSE Arca
AMLP	Alerian MLP ETF	NYSE Arca
AMU	ETRACS Alerian MLP Index ETN	NYSE Arca
BAB	PowerShares Build America Bond Portfolio	NYSE Arca
BAL	iPath Dow Jones-UBS Cotton Subindex Total Return Callable ETN	NYSE Arca
BBH	Market Vectors Biotech ETF	NYSE Arca
BDG	PowerShares DB Base Metals Long ETN	NYSE Arca
BFOR	Barron's 400 ETF	NYSE Arca
BIK	SPDR S&P BRIC 40 ETF	NYSE Arca
BIL	SPDR Barclays 1–3 Month T-Bill	NYSE Arca
BIV	Vanguard Intermediate-Term Bond ETF	NYSE Arca
BKF	iShares MSCI BRIC Index Fund	NYSE Arca
BKLN	PowerShares Senior Loan Portfolio	NYSE Arca
BLV	Vanguard Long-Term Bond ETF	NYSE Arca
BND	Vanguard Total Bond Market ETF	NYSE Arca
BNDX	Vanguard Total International Bond ETF	NASDAQ GM
BNO	United States Brent Oil Fund LP	NYSE Arca
BOND	Pimco Total Return ETF	NYSE Arca
BOS	PowerShares DB Base Metals Short ETN	NYSE Arca
BRF	Market Vectors Brazil Small-Cap ETF	NYSE Arca
BSJE	Guggenheim BulletShares 2014 High Yield Corporate Bond ETF	NYSE Arca
BSJF	Guggenheim BulletShares 2015 High Yield Corporate Bond ETF	NYSE Arca
BSV	Vanguard Short-Term Bond ETF	NYSE Arca
BWV	iPath CBOE S&P 500 BuyWrite Index ETN	NYSE Arca
BWX	SPDR Barclays International Treasury Bond ETF	NYSE Arca
CEW	WisdomTree Emerging Currency Fund	NYSE Arca
CFT	iShares Barclays Credit Bond Fund	NYSE Arca
CHIQ	Global X China Consumer ETF	NYSE Arca
CIU	iShares Barclays Intermediate Credit Bond Fund	NYSE Arca
CLY	iShares 10+ Year Credit Bond Fund	NYSE Arca
CMF	iShares S&P California AMT-Free Municipal Bond Fund	NYSE Arca
CORN	Teucrium Corn Fund	NYSE Arca
CSD	Guggenheim Spin-Off ETF	NYSE Arca
CSJ	iShares Barclays 1–3 Year Credit Bond Fund	NYSE Arca
CUT	Guggenheim Timber ETF	NYSE Arca
CVY	Guggenheim Multi-Asset Income ETF	NYSE Arca
CWB	SPDR Barclays Convertible Securities ETF	NYSE Arca
CWI	SPDR MSCI ACWI ex-US ETF	NYSE Arca
DBA	PowerShares DB Agriculture Fund	NYSE Arca
DBB	PowerShares DB Base Metals Fund	NYSE Arca
DBC	PowerShares DB Commodity Index Tracking Fund	NYSE Arca
DBE	PowerShares DB Energy Fund	NYSE Arca
DBJP	db X-trackers MSCI Japan Hedged Equity Fund	NYSE Arca
DBO	PowerShares DB Oil Fund	NYSE Arca
DBP	PowerShares DB Precious Metals Fund	NYSE Arca
DBV	PowerShares DB G10 Currency Harvest Fund	NYSE Arca
DEM	WisdomTree Emerging Markets Equity Income Fund	NYSE Arca
DES	WisdomTree SmallCap Dividend Fund	NYSE Arca
DFJ	WisdomTree Japan SmallCap Dividend Fund	NYSE Arca
DGL	PowerShares DB Gold Fund	NYSE Arca

Ticker	Name	Primary Exchange
DGS	WisdomTree Emerging Markets SmallCap Dividend Fund	NYSE Arca
DGZ	PowerShares DB Gold Short ETN	NYSE Arca
DHS	WisdomTree Equity Income Fund	NYSE Arca
DIA	SPDR Dow Jones Industrial Average ETF Trust	NYSE Arca
DJCI	ETRACS DJ–UBS Commodity Index Total Return ETN	NYSE Arca
DJP	iPath Dow Jones-UBS Commodity Index Total Return ETN	NYSE Arca
DLN	WisdomTree LargeCap Dividend Fund	NYSE Arca
DLS	WisdomTree International SmallCap Dividend Fund	NYSE Arca
DOG	ProShares Short Dow30	NYSE Arca
DON	WisdomTree MidCap Dividend Fund	NYSE Arca
DTN	WisdomTree Dividend Ex-Financials Fund	NYSE Arca
DVY	iShares Dow Jones Select Dividend Index Fund	NYSE Arca
DWX	SPDR S&P International Dividend ETF	NYSE Arca
DXJ	WisdomTree Japan Hedged Equity Fund	NYSE Arca
EBND	SPDR Barclays Emerging Markets Local Bond ETF	NYSE Arca
ECH	iShares MSCI Chile Capped Investable Market Index Fund	NYSE Arca
ECON	EGShares Emerging Markets Consumer ETF	NYSE Arca
EDIV	SPDR S&P Emerging Markets Dividend ETF	NYSE Arca
EDV	Vanguard Extended Duration Treasury ETF	NYSE Arca
EEM	iShares MSCI Emerging Markets Index Fund	NYSE Arca
EEMA	iShares MSCI Emerging Markets Asia Index	NASDAQ GM
EEMV	iShares MSCI Emerging Markets Minimum Volatility Index Fund	NYSE Arca
EFA	iShares MSCI EAFE Index Fund	NYSE Arca
EFAV	iShares MSCI EAFE Minimum Volatility Index Fund	NYSE Arca
EFG	iShares MSCI EAFE Growth Index	NYSE Arca
EFV	iShares MSCI EAFE Value Index	NYSE Arca
EFZ	ProShares Short MSCI EAFE	NYSE Arca
EIDO	iSHARES MSCI Indonesia Investable Market Index Fund	NYSE Arca
ELD	WisdomTree Emerging Markets Local Debt Fund	NYSE Arca
ELR	SPDR Dow Jones Large Cap ETF	NYSE Arca
EMB	iShares JPMorgan USD Emerging Markets Bond Fund	NYSE Arca
EMLC	Market Vectors Emerging Markets Local Currency Bond ETF	NYSE Arca
EMM	SPDR Dow Jones Mid Cap ETF	NYSE Arca
ENZL	iShares MSCI New Zealand Capped Investable Market Index Fund	NYSE Arca
EPHE	iShares MSCI Philippines Investable Market Index Fund	NYSE Arca
EPI	WisdomTree India Earnings Fund	NYSE Arca
EPOL	iShares MSCI Poland Capped Investable Market Index Fund	NYSE Arca
EPP	iShares MSCI Pacific ex-Japan Index Fund	NYSE Arca
EPU	iShares MSCI All Peru Capped Index Fund	NYSE Arca
ERUS	iShares MSCI Russia Capped Index Fund	NYSE Arca
EUM	ProShares Short MSCI Emerging Markets	NYSE Arca
EWA	iShares MSCI Australia Index Fund	NYSE Arca
EWC	iShares MSCI Canada Index Fund	NYSE Arca
EWD	iShares MSCI Sweden Index Fund	NYSE Arca
EWG	iShares MSCI Germany Index Fund	NYSE Arca
EWH	iShares MSCI Hong Kong Index Fund	NYSE Arca
EWI	iShares MSCI Italy Capped Index Fund	NYSE Arca
EWJ	iShares MSCI Japan Index Fund	NYSE Arca
EWL	iShares MSCI Switzerland Capped Index Fund	NYSE Arca
EWM	iShares MSCI Malaysia Index Fund	NYSE Arca
EWN	iShares MSCI Netherlands Investable Market Index Fund	NYSE Arca
EWO	iShares MSCI Austria Capped Investable Market Index Fund	NYSE Arca
EWP	iShares MSCI Spain Capped Index Fund	NYSE Arca
EWQ	iShares MSCI France Index Fund	NYSE Arca
EWS	iShares MSCI Singapore Index Fund	NYSE Arca
EWT	iShares MSCI Taiwan Index Fund	NYSE Arca
EWU	iShares MSCI United Kingdom Index Fund	NYSE Arca
EWW	iShares MSCI Mexico Capped Investable Market Index Fund	NYSE Arca
EWX	SPDR S&P Emerging Markets SmallCap ETF	NYSE Arca
EWY	iShares MSCI South Korea Capped Index Fund	NYSE Arca
EWZ	iShares MSCI Brazil Capped Index Fund	NYSE Arca
EXI	iShares S&P Global Industrials Sector Index Fund	NYSE Arca
EZA	iShares MSCI South Africa Index Fund	NYSE Arca
EZU	iShares MSCI EMU Index Fund	NYSE Arca
FBT	First Trust NYSE Arca Biotechnology Index Fund	NYSE Arca
FCG	First Trust ISE-Revere Natural Gas Index Fund	NYSE Arca
FDL	First Trust Morningstar Dividend Leaders Index	NYSE Arca
FDN	First Trust Dow Jones Internet Index Fund	NYSE Arca
FEM	First Trust Emerging Markets AlphaDEX Fund	NYSE Arca
FEX	First Trust Large Cap Core AlphaDEX Fund	NYSE Arca
FEZ	SPDR EURO STOXX 50 ETF	NYSE Arca
FGD	First Trust DJ Global Select Dividend Index Fund	NYSE Arca
FLOT	iShares Floating Rate Note Fund	NYSE Arca

Ticker	Name	Primary Exchange
FLRN	SPDR Barclays Investment Grade Floating Rate ETF	NYSE Arca
FM	iShares MSCI Frontier 100 ETF	NYSE Arca
FNX	First Trust Mid-Cap Core AlphaDEX Fund	NYSE Arca
FRI	First Trust S&P REIT Index Fund	NYSE Arca
FTA	First Trust Large Cap Value AlphaDEX Fund	NYSE Arca
FVD	First Trust Value Line Dividend Index Fund	NYSE Arca
FXA	CurrencyShares Australian Dollar Trust	NYSE Arca
FXB	CurrencyShares British Pound Sterling Trust	NYSE Arca
FXC	CurrencyShares Canadian Dollar Trust	NYSE Arca
FXD	First Trust Consumer Discretionary AlphaDEX Fund	NYSE Arca
FXE	CurrencyShares Euro Trust	NYSE Arca
FXF	CurrencyShares Swiss Franc Trust	NYSE Arca
FXG	First Trust Consumer Staples AlphaDEX Fund	NYSE Arca
FXH	First Trust Health Care AlphaDEX Fund	NYSE Arca
FXI	iShares FTSE China 25 Index Fund	NYSE Arca
FXL	First Trust Technology AlphaDEX Fund	NYSE Arca
FXO	First Trust Financial AlphaDEX Fund	NYSE Arca
FXY	CurrencyShares Japanese Yen Trust	NYSE Arca
FXZ	First Trust Materials AlphaDEX Fund	NYSE Arca
GCC	GreenHaven Continuous Commodity Index Fund	NYSE Arca
GDX	Market Vectors Gold Miners ETF	NYSE Arca
GDXJ	Market Vectors Junior Gold Miners ETF	NYSE Arca
GII	SPDR S&P Global Infrastructure ETF	NYSE Arca
GIY	Guggenheim Enhanced Core Bond ETF	NYSE Arca
GLD	SPDR Gold Shares	NYSE Arca
GMF	SPDR S&P Emerging Asia Pacific ETF	NYSE Arca
GMM	SPDR S&P Emerging Markets ETF	NYSE Arca
GMTB	Columbia Core Bond ETF	NYSE Arca
GNR	SPDR S&P Global Natural Resources ETF	NYSE Arca
GOVT	iShares Barclays U.S. Treasury Bond Fund	NYSE Arca
GSG	iShares S&P GSCI Commodity Indexed Trust	NYSE Arca
GSP	iPath GSCI Total Return Index ETN	NYSE Arca
GSY	Guggenheim Enhanced Short Duration Bond ETF	NYSE Arca
GUNR	FlexShares Global Upstream Natural Resources Index Fund	NYSE Arca
GVI	iShares Barclays Intermediate Government/Credit Bond Fund	NYSE Arca
GWL	SPDR S&P World ex-US ETF	NYSE Arca
GWX	SPDR S&P International Small Cap ETF	NYSE Arca
GXC	SPDR S&P China ETF	NYSE Arca
GXG	Global X FTSE Colombia 20 ETF	NYSE Arca
HAO	Guggenheim China Small Cap ETF	NYSE Arca
HDGE	Ranger Equity Bear ETF	NYSE Arca
HDV	iShares High Dividend Equity Fund	NYSE Arca
HEDJ	WisdomTree Europe Hedged Equity Fund	NYSE Arca
HUSE	Huntington US Equity Rotation Strategy ETF	NYSE Arca
HYD	Market Vectors High Yield Municipal Index ETF	NYSE Arca
HYG	iShares iBoxx $ High Yield Corporate Bond Fund	NYSE Arca
HYLD	Peritus High Yield ETF	NYSE Arca
HYMB	SPDR Nuveen S&P High Yield Municipal Bond ETF	NYSE Arca
HYS	PIMCO 0–5 Year High Yield Corporate Bond Index Exchange-Traded Fund	NYSE Arca
IAI	iShares Dow Jones US Broker Dealers Index Fund	NYSE Arca
IAT	iShares Dow Jones US Regional Banks Index Fund	NYSE Arca
IAU	iShares Gold Trust	NYSE Arca
IBB	iShares Nasdaq Biotechnology Index Fund	NASDAQ GM
IBND	SPDR Barclays International Corporate Bond ETF	NYSE Arca
ICF	iShares Cohen & Steers Realty Majors Index Fund	NYSE Arca
IDU	iShares Dow Jones US Utilities Sector Index Fund	NYSE Arca
IDV	iShares Dow Jones International Select Dividend Index Fund	NYSE Arca
IDX	Market Vectors Indonesia Index ETF	NYSE Arca
IEF	iShares Barclays 7–10 Year Treasury Bond Fund	NYSE Arca
IEFA	iShares Core MSCI EAFE ETF	NYSE Arca
IEI	iShares Barclays 3–7 Year Treasury Bond Fund	NYSE Arca
IELG	iShares Enhanced U.S. Large-Cap ETF	NYSE Arca
IEMG	iShares Core MSCI Emerging Markets ETF	NYSE Arca
IEO	iShares Dow Jones US Oil & Gas Exploration & Production Index Fund	NYSE Arca
IESM	iShares Enhanced U.S. Small-Cap ETF	NYSE Arca
IEV	iShares S&P Europe 350 Index Fund	NYSE Arca
IEZ	iShares Dow Jones US Oil Equipment & Services Index Fund	NYSE Arca
IFGL	iShares FTSE EPRA/NAREIT Developed Real Estate ex-US Index Fund	NASDAQ GM
IGE	iShares S&P North American Natural Resources Sector Index Fund	NYSE Arca
IGF	iShares S&P Global Infrastructure Index Fund	NYSE Arca
IGM	iShares S&P North American Technology Sector Index Fund	NYSE Arca
IGN	iShares S&P North American Technology-Multimedia Networking Index Fund	NYSE Arca
IGOV	iShares S&P/Citigroup International Treasury Bond Fund	NASDAQ GM

Ticker	Name	Primary Exchange
IGS	ProShares Short Investment Grade Corporate	NYSE Arca
IGV	iShares S&P North American Technology-Software Index Fund	NYSE Arca
IHE	iShares Dow Jones US Pharmaceuticals Index Fund	NYSE Arca
IHF	iShares Dow Jones US Healthcare Providers Index Fund	NYSE Arca
IHI	iShares Dow Jones US Medical Devices Index Fund	NYSE Arca
IHY	Market Vectors International High Yield Bond ETF	NYSE Arca
IJH	iShares Core S&P Mid-Cap ETF	NYSE Arca
IJJ	iShares S&P MidCap 400/BARRA Value Index Fund	NYSE Arca
IJK	iShares S&P MidCap 400 Growth Index Fund	NYSE Arca
IJR	iShares Core S&P Small-Cap ETF	NYSE Arca
IJS	iShares S&P SmallCap 600 Value Index Fund	NYSE Arca
IJT	iShares S&P SmallCap 600/BARRA Growth Index Fund	NYSE Arca
ILF	iShares S&P Latin America 40 Index Fund	NYSE Arca
ILTB	iShares Core Long-Term US Bond ETF	NYSE Arca
INDA	iShares MSCI India Index Fund	BATS
INDY	iShares India 50 ETF	NASDAQ GM
INP	iPath MSCI India Index ETN	NYSE Arca
IOO	iShares S&P Global 100 Index Fund	NYSE Arca
IPE	SPDR Barclays TIPS ETF	NYSE Arca
ISHG	iShares S&P/Citigroup 1–3 Year International Treasury Bond Fund	NASDAQ GM
ITB	iShares Dow Jones US Home Construction Index Fund	NYSE Arca
ITM	Market Vectors Intermediate Municipal ETF	NYSE Arca
ITOT	iShares Core S&P Total US Stock Market ETF	NYSE Arca
ITR	SPDR Barclays Intermediate Term Corporate Bond ETF	NYSE Arca
IVE	iShares S&P 500 Value Index Fund	NYSE Arca
IVOO	Vanguard S&P Mid-Cap 400 ETF	NYSE Arca
IVV	iShares Core S&P 500 ETF	NYSE Arca
IVW	iShares S&P 500 Growth Index Fund	NYSE Arca
IWB	iShares Russell 1000 Index Fund	NYSE Arca
IWC	iShares Russell Microcap Index Fund	NYSE Arca
IWD	iShares Russell 1000 Value Index Fund	NYSE Arca
IWF	iShares Russell 1000 Growth Index Fund	NYSE Arca
IWM	iShares Russell 2000 Index Fund	NYSE Arca
IWN	iShares Russell 2000 Value Index Fund	NYSE Arca
IWO	iShares Russell 2000 Growth Index Fund	NYSE Arca
IWP	iShares Russell Midcap Growth Index Fund	NYSE Arca
IWR	iShares Russell Midcap Index Fund	NYSE Arca
IWS	iShares Russell Midcap Value Index Fund	NYSE Arca
IWV	iShares Russell 3000 Index Fund	NYSE Arca
IXC	iShares S&P Global Energy Sector Index Fund	NYSE Arca
IXG	iShares S&P Global Financials Sector Index Fund	NYSE Arca
IXJ	iShares S&P Global Healthcare Sector Index Fund	NYSE Arca
IXN	iShares S&P Global Technology Sector Index Fund	NYSE Arca
IXP	iShares S&P Global Telecommunications Sector Index Fund	NYSE Arca
IYC	iShares Dow Jones US Consumer Services Sector Index Fund	NYSE Arca
IYE	iShares Dow Jones US Energy Sector Index Fund	NYSE Arca
IYF	iShares Dow Jones US Financial Sector Index Fund	NYSE Arca
IYG	iShares Dow Jones US Financial Services Index Fund	NYSE Arca
IYH	iShares Dow Jones US Healthcare Sector Index Fund	NYSE Arca
IYJ	iShares Dow Jones US Industrial Sector Index Fund	NYSE Arca
IYK	iShares Dow Jones US Consumer Goods Sector Index Fund	NYSE Arca
IYM	iShares Dow Jones US Basic Materials Sector Index Fund	NYSE Arca
IYR	iShares Dow Jones US Real Estate Index Fund	NYSE Arca
IYT	iShares Dow Jones Transportation Average Index Fund	NYSE Arca
IYW	iShares Dow Jones US Technology Sector Index Fund	NYSE Arca
IYY	iShares Dow Jones US Index Fund	NYSE Arca
IYZ	iShares Dow Jones US Telecommunications Sector Index Fund	NYSE Arca
JJC	iPath Dow Jones-UBS Copper Subindex Total Return ETN	NYSE Arca
JJG	iPath Dow Jones-UBS Grains Subindex Total Return ETN	NYSE Arca
JKF	iShares Morningstar Large Value Index Fund	NYSE Arca
JKL	iShares Morningstar Small Value Index Fund	NYSE Arca
JNK	SPDR Barclays High Yield Bond ETF	NYSE Arca
JO	iPath Dow Jones-UBS Coffee Subindex Total Return ETN	NYSE Arca
JXI	iShares S&P Global Utilities Sector Index Fund	NYSE Arca
KBE	SPDR S&P Bank ETF	NYSE Arca
KBWB	PowerShares KBW Bank Portfolio	NYSE Arca
KBWD	PowerShares KBW High Dividend Yield Financial Portfolio	NYSE Arca
KIE	SPDR S&P Insurance ETF	NYSE Arca
KOL	Market Vectors Coal ETF	NYSE Arca
KRE	SPDR S&P Regional Banking ETF	NYSE Arca
KXI	iShares S&P Global Consumer Staples Sector Index Fund	NYSE Arca
LAG	SPDR Barclays Aggregate Bond ETF	NYSE Arca
LEMB	iShares Emerging Markets Local Currency Bond Fund	NYSE Arca

Ticker	Name	Primary Exchange
LQD	iShares iBoxx Investment Grade Corporate Bond Fund	NYSE Arca
LTPZ	PIMCO 15+ Year U.S. TIPS Index Exchange-Traded Fund	NYSE Arca
LWC	SPDR Barclays Long Term Corporate Bond ETF	NYSE Arca
MBB	iShares Barclays MBS Bond Fund	NYSE Arca
MBG	SPDR Barclays Mortgage Backed Bond ETF	NYSE Arca
MCHI	iShares MSCI China Index Fund	NYSE Arca
MDIV	First Trust NASDAQ US Multi-Asset Diversified Income Index Fund	NASDAQ GM
MDY	SPDR S&P MidCap 400 ETF Trust	NYSE Arca
MGC	Vanguard Mega Cap ETF	NYSE Arca
MGK	Vanguard Mega Cap Growth ETF	NYSE Arca
MGV	Vanguard Mega Cap Value ETF	NYSE Arca
MINT	PIMCO Enhanced Short Maturity Exchange-Traded Fund	NYSE Arca
MLPI	ETRACS Alerian MLP Infrastructure Index ETN	NYSE Arca
MLPN	Credit Suisse Cushing 30 MLP Index ETN	NYSE Arca
MOO	Market Vectors Agribusiness ETF	NYSE Arca
MUB	iShares S&P National Municipal Bond Fund	NYSE Arca
MXI	iShares S&P Global Materials Sector Index Fund	NYSE Arca
MYY	ProShares Short MidCap 400	NYSE Arca
NKY	MAXIS Nikkei 225 Index Fund ETF	NYSE Arca
OEF	iShares S&P 100 Index Fund	NYSE Arca
OIH	Market Vectors Oil Service ETF	NYSE Arca
OIL	iPath Goldman Sachs Crude Oil Total Return Index ETN	NYSE Arca
PALL	ETFS Physical Palladium Shares	NYSE Arca
PBJ	Powershares Dynamic Food & Beverage Portfolio	NYSE Arca
PBP	PowerShares S&P 500 BuyWrite Portfolio	NYSE Arca
PBS	Powershares Dynamic Media Portfolio	NYSE Arca
PCEF	PowerShares CEF Income Composite Portfolio	NYSE Arca
PCY	PowerShares Emerging Markets Sovereign Debt Portfolio	NYSE Arca
PDP	Powershares DWA Technical Leaders Portfolio	NYSE Arca
PFF	iShares S&P US Preferred Stock Index Fund	NYSE Arca
PGF	PowerShares Financial Preferred Portfolio	NYSE Arca
PGX	PowerShares Preferred Portfolio	NYSE Arca
PHB	PowerShares Fundamental High Yield Corporate Bond Portfolio	NYSE Arca
PHDG	PS S&P Downside Hdgd	NYSE Arca
PHO	PowerShares Water Resources Portfolio	NYSE Arca
PHYS	Sprott Physical Gold Trust	NYSE Arca
PID	PowerShares International Dividend Achievers Portfolio	NYSE Arca
PIE	PowerShares DWA Emerging Markets Technical Leaders Portfolio	NYSE Arca
PIN	PowerShares India Portfolio	NYSE Arca
PIZ	PowerShares DWA Developed Markets Technical Leaders Portfolio	NYSE Arca
PJP	Powershares Dynamic Pharmaceuticals Portfolio	NYSE Arca
PKW	PowerShares Buyback Achievers Portfolio	NYSE Arca
PPH	Market Vectors Pharmaceutical ETF	NYSE Arca
PPLT	ETFS Platinum Trust	NYSE Arca
PRF	Powershares FTSE RAFI US 1000 Portfolio	NYSE Arca
PRFZ	PowerShares FTSE RAFI US 1500 Small-Mid Portfolio	NASDAQ GM
PSK	SPDR Wells Fargo Preferred Stock ETF	NYSE Arca
PSLV	Sprott Physical Silver Trust	NYSE Arca
PSP	PowerShares Global Listed Private Equity Portfolio	NYSE Arca
PSQ	ProShares Short QQQ	NYSE Arca
PWV	PowerShares Dynamic Large Cap Value Portfolio	NYSE Arca
PXF	PowerShares FTSE RAFI Developed Markets ex-U.S. Portfolio	NYSE Arca
PXH	PowerShares FTSE RAFI Emerging Markets Portfolio	NYSE Arca
PZA	PowerShares Insured National Municipal Bond Portfolio	NYSE Arca
QAI	IndexIQ ETF Trust—IQ Hedge Multi-Strategy Tracker ETF	NYSE Arca
QQQ	Powershares QQQ Trust Series 1	NASDAQ GM
REM	iShares FTSE NAREIT Mortgage Plus Capped Index Fund	NYSE Arca
REZ	iShares FTSE NAREIT Residential Plus Capped Index Fund	NYSE Arca
RFG	Guggenheim S&P Midcap 400 Pure Growth ETF	NYSE Arca
RJA	ELEMENTS Linked to the Rogers International Commodity Index—Agri Tot Return	NYSE Arca
RJI	ELEMENTS Linked to the Rogers International Commodity Index—Total Return	NYSE Arca
RPG	Guggenheim S&P 500 Pure Growth ETF	NYSE Arca
RPV	Guggenheim S&P 500 Pure Value ETF	NYSE Arca
RSP	Guggenheim S&P 500 Equal Weight ETF	NYSE Arca
RSX	Market Vectors Russia ETF	NYSE Arca
RTH	Market Vectors Retail ETF	NYSE Arca
RWM	ProShares Short Russell2000	NYSE Arca
RWO	SPDR Dow Jones Global Real Estate ETF	NYSE Arca
RWR	SPDR Dow Jones REIT ETF	NYSE Arca
RWX	SPDR Dow Jones International Real Estate ETF	NYSE Arca
RXI	iShares S&P Global Consumer Discretionary Sector Index Fund	NYSE Arca
SAGG	Direxion Daily Total Bond Market Bear 1x Shares	NYSE Arca
SBB	ProShares Short SmallCap600	NYSE Arca

Ticker	Name	Primary Exchange
SCHA	Schwab US Small-Cap ETF	NYSE Arca
SCHB	Schwab US Broad Market ETF	NYSE Arca
SCHD	Schwab US Dividend Equity ETF	NYSE Arca
SCHE	Schwab Emerging Markets Equity ETF	NYSE Arca
SCHF	Schwab International Equity ETF	NYSE Arca
SCHG	Schwab U.S. Large-Cap Growth ETF	NYSE Arca
SCHH	Schwab U.S. REIT ETF	NYSE Arca
SCHM	Schwab U.S. Mid-Cap ETF	NYSE Arca
SCHO	Schwab Short-Term U.S. Treasury ETF	NYSE Arca
SCHP	Schwab U.S. TIPs ETF	NYSE Arca
SCHR	Schwab Intermediate-Term U.S. Treasury ETF	NYSE Arca
SCHV	Schwab U.S. Large-Cap Value ETF	NYSE Arca
SCHX	Schwab US Large-Cap ETF	NYSE Arca
SCHZ	Schwab U.S. Aggregate Bond ETF	NYSE Arca
SCIF	Market Vectors India Small-Cap Index ETF	NYSE Arca
SCPB	SPDR Barclays Short Term Corporate Bond ETF	NYSE Arca
SCZ	iShares MSCI EAFE Small Cap Index Fund	NYSE Arca
SDIV	Global X SuperDividend ETF	NYSE Arca
SDY	SPDR S&P Dividend ETF	NYSE Arca
SGOL	ETFS Gold Trust	NYSE Arca
SH	ProShares Short S&P500	NYSE Arca
SHM	SPDR Nuveen Barclays Short Term Municipal Bond ETF	NYSE Arca
SHV	iShares Barclays Short Treasury Bond Fund	NYSE Arca
SHY	iShares Barclays 1–3 Year Treasury Bond Fund	NYSE Arca
SIL	Global X Silver Miners ETF	NYSE Arca
SIVR	ETFS Physical Silver Shares	NYSE Arca
SJB	ProShares Short High Yield	NYSE Arca
SJNK	SPDR Barclays Short Term High Yield Bond ETF	NYSE Arca
SLV	iShares Silver Trust	NYSE Arca
SLX	Market Vectors Steel Index Fund	NYSE Arca
SLY	SPDR S&P 600 Small CapETF	NYSE Arca
SMH	Market Vectors Semiconductor ETF	NYSE Arca
SNLN	Highland/iBoxx Senior Loan ETF	NYSE Arca
SOXX	iShares PHLX SOX Semiconductor Sector Index Fund	NASDAQ GM
SPHB	PowerShares S&P 500 High Beta Port ETF	NYSE Arca
SPHD	PowerShares S&P 500 High Dividend Portfolio	NYSE Arca
SPLV	PowerShares S&P 500 Low Volatility Portfolio	NYSE Arca
SPPP	Sprott Physical Platinum & Palladium Trust	NYSE Arca
SPY	SPDR S&P 500 ETF Trust	NYSE Arca
SPYG	SPDR S&P 500 Growth ETF	NYSE Arca
SPYV	SPDR S&P 500 Value ETF	NYSE Arca
SRLN	SPDR Blackstone/GSO Senior Loan ETF	NYSE Arca
STIP	iShares Barclays 0–5 Year TIPS Bond Fund	NYSE Arca
STPZ	PIMCO 1–5 Year U.S. TIPS Index Exchange-Traded Fund	NYSE Arca
SUB	iShares S&P Short Term National AMT-Free Municipal Bond Fund	NYSE Arca
SVXY	ProShares Short VIX Short-Term Futures ETF	NYSE Arca
SYLD	Cambria Shareholder Yield ETF	NYSE Arca
TAN	Guggenheim Solar ETF	NYSE Arca
TAO	Guggenheim China Real Estate ETF	NYSE Arca
TBF	ProShares Short 20+ Year Treasury	NYSE Arca
TBX	ProShares Short 7–10 Treasury	NYSE Arca
TDTT	FlexShares iBoxx 3-Year Target Duration TIPS Index Fund	NYSE Arca
TFI	SPDR Nuveen Barclays Municipal Bond ETF	NYSE Arca
THD	iShares MSCI Thailand Capped Investable Market Index Fund	NYSE Arca
TIP	iShares Barclays TIPS Bond Fund	NYSE Arca
TLH	iShares Barclays 10–20 Year Treasury Bond Fund	NYSE Arca
TLT	iShares Barclays 20+ Year Treasury Bond Fund	NYSE Arca
TUR	iShares MSCI Turkey Index Fund	NYSE Arca
UNG	United States Natural Gas Fund LP	NYSE Arca
USCI	United States Commodity Index Fund	NYSE Arca
USMV	iShares MSCI USA Minimum Volatility Index Fund	NYSE Arca
USO	United States Oil Fund LP	NYSE Arca
UUP	PowerShares DB US Dollar Index Bullish Fund	NYSE Arca
VAW	Vanguard Materials ETF	NYSE Arca
VB	Vanguard Small-Cap ETF	NYSE Arca
VBK	Vanguard Small-Cap Growth ETF	NYSE Arca
VBR	Vanguard Small-Cap Value ETF	NYSE Arca
VCIT	Vanguard Intermediate-Term Corporate Bond ETF	NASDAQ GM
VCLT	Vanguard Long-Term Corporate Bond ETF	NASDAQ GM
VCR	Vanguard Consumer Discretionary ETF	NYSE Arca
VCSH	Vanguard Short-Term Corporate Bond ETF	NASDAQ GM
VDC	Vanguard Consumer Staples ETF	NYSE Arca
VDE	Vanguard Energy ETF	NYSE Arca

Ticker	Name	Primary Exchange
VEA	Vanguard FTSE Developed Markets ETF	NYSE Arca
VEU	Vanguard FTSE All-World ex-US ETF	NYSE Arca
VFH	Vanguard Financials ETF	NYSE Arca
VGIT	Vanguard Intermediate-Term Government Bond ETF	NASDAQ GM
VGK	Vanguard FTSE Europe ETF	NYSE Arca
VGLT	Vanguard Long-Term Government Bond ETF	NASDAQ GM
VGSH	Vanguard Short-Term Government Bond ETF	NASDAQ GM
VGT	Vanguard Information Technology ETF	NYSE Arca
VHT	Vanguard Health Care ETF	NYSE Arca
VIG	Vanguard Dividend Appreciation ETF	NYSE Arca
VIIX	VelocityShares VIX Short Term ETN	NYSE Arca
VIIZ	VelocityShares VIX Medium Term ETN	NYSE Arca
VIOO	Vanguard S&P Small-Cap 600 ETF	NYSE Arca
VIS	Vanguard Industrials ETF	NYSE Arca
VIXM	ProShares VIX Mid-Term Futures ETF	NYSE Arca
VIXY	ProShares VIX Short-Term Futures ETF	NYSE Arca
VMBS	Vanguard Mortgage-Backed Securities ETF	NASDAQ GM
VNM	Market Vectors Vietnam ETF	NYSE Arca
VNQ	Vanguard REIT ETF	NYSE Arca
VNQI	Vanguard Global ex-U.S. Real Estate ETF	NASDAQ GM
VO	Vanguard Mid-Cap ETF	NYSE Arca
VOE	Vanguard Mid-Cap Value ETF	NYSE Arca
VONE	Vanguard Russell 1000	NASDAQ GM
VONG	Vanguard Russell 1000 Growth ETF	NASDAQ GM
VONV	Vanguard Russell 1000 Value	NASDAQ GM
VOO	Vanguard S&P 500 ETF	NYSE Arca
VOOG	Vanguard S&P 500 Growth ETF	NYSE Arca
VOOV	Vanguard S&P 500 Value ETF	NYSE Arca
VOT	Vanguard Mid-Cap Growth ETF	NYSE Arca
VOX	Vanguard Telecommunication Services ETF	NYSE Arca
VPL	Vanguard FTSE Pacific ETF	NYSE Arca
VPU	Vanguard Utilities ETF	NYSE Arca
VQT	Barclays ETN+ ETNs Linked to the S&P 500 Dynamic VEQTORTM TotaL Return Index	NYSE Arca
VSS	Vanguard FTSE All World ex-US Small-Cap ETF	NYSE Arca
VT	Vanguard Total World Stock ETF	NYSE Arca
VTHR	Vanguard Russell 3000	NASDAQ GM
VTI	Vanguard Total Stock Market ETF	NYSE Arca
VTIP	Vanguard Short-Term Inflation-Protected Securities ETF	NASDAQ GM
VTV	Vanguard Value ETF	NYSE Arca
VTWG	Vanguard Russell 2000 Growth	NASDAQ GM
VTWO	Vanguard Russell 2000	NASDAQ GM
VTWV	Vanguard Russell 2000 Value	NASDAQ GM
VUG	Vanguard Growth ETF	NYSE Arca
VV	Vanguard Large-Cap ETF	NYSE Arca
VWO	Vanguard FTSE Emerging Markets ETF	NYSE Arca
VWOB	Vanguard Emerging Markets Government Bond ETF	NASDAQ GM
VXF	Vanguard Extended Market ETF	NYSE Arca
VXUS	Vanguard Total International Stock ETF	NASDAQ GM
VXX	iPATH S&P 500 VIX Short-Term Futures ETN	NYSE Arca
VXZ	iPATH S&P 500 VIX Mid-Term Futures ETN	NYSE Arca
VYM	Vanguard High Dividend Yield ETF	NYSE Arca
WIP	SPDR DB International Government Inflation-Protected Bond ETF	NYSE Arca
WOOD	iShares S&P Global Timber & Forestry Index Fund	NASDAQ GM
XBI	SPDR S&P Biotech ETF	NYSE Arca
XES	SPDR S&P Oil & Gas Equipment & Services ETF	NYSE Arca
XHB	SPDR S&P Homebuilders ETF	NYSE Arca
XIV	VelocityShares Daily Inverse VIX Short Term ETN	NYSE Arca
XLB	Materials Select Sector SPDR Fund	NYSE Arca
XLE	Energy Select Sector SPDR Fund	NYSE Arca
XLF	Financial Select Sector SPDR Fund	NYSE Arca
XLG	Guggenheim Russell Top 50 Mega Cap ETF	NYSE Arca
XLI	Industrial Select Sector SPDR Fund	NYSE Arca
XLK	Technology Select Sector SPDR Fund	NYSE Arca
XLP	Consumer Staples Select Sector SPDR Fund	NYSE Arca
XLU	Utilities Select Sector SPDR Fund	NYSE Arca
XLV	Health Care Select Sector SPDR Fund	NYSE Arca
XLY	Consumer Discretionary Select Sector SPDR Fund	NYSE Arca
XME	SPDR S&P Metals & Mining ETF	NYSE Arca
XOP	SPDR S&P Oil & Gas Exploration & Production ETF	NYSE Arca
XPH	SPDR S&P Pharmaceuticals ETF	NYSE Arca
XRT	SPDR S&P Retail ETF	NYSE Arca
XSD	SPDR S&P Semiconductor ETF	NYSE Arca
XVZ	iPath S&P 500 Dynamic VIX ETN	NYSE Arca

Ticker	Name	Primary Exchange
YMLP	Yorkville High Income MLP	NYSE Arca
ZIV	VelocityShares Daily Inverse VIX Medium Term ETN	NYSE Arca
ZROZ	PIMCO 25+ Year Zero Coupon U.S. Treasury Index Exchange-Traded Fund	NYSE Arca

Appendix B—Data

Unless otherwise specified, the following data shall be collected and transmitted to the SEC in an agreed-upon format on a monthly basis, to be provided 30 calendar days following month end. Unless otherwise specified, the Primary Listing Exchanges shall be responsible for collecting and transmitting the data to the SEC. Data collected in connection with Sections II(E)–(G) below shall be transmitted to the SEC with a request for confidential treatment under the Freedom of Information Act. 5 U.S.C. 552, and the SEC's rules and regulations thereunder.

I. **Summary Statistics**

A. Frequency with which NMS Stocks enter a Limit State. Such summary data shall be broken down as follows:

1. Partition stocks by category
   a. Tier 1 non-ETP issues > $3.00
   b. Tier 1 non-ETP issues >= $0.75 and <= $3.00
   c. Tier 1 non-ETP issues < $0.75
   d. Tier 1 non-leveraged ETPs in each of above categories
   e. Tier 1 leveraged ETPs in each of above categories
   f. Tier 2 non-ETPs in each of above categories
   g. Tier 2 non-leveraged ETPs in each of above categories
   h. Tier 2 leveraged ETPs in each of above categories
2. Partition by time of day
   a. Opening (prior to 9:45 a.m. ET)
   b. Regular (between 9:45 a.m. ET and 3:35 p.m. ET)
   c. Closing (after 3:35 p.m. ET)
   d. Within five minutes of a Trading Pause re-open or IPO open
3. Track reasons for entering a Limit State, such as:
   a. Liquidity gap—price reverts from a Limit State Quotation and returns to trading within the Price Bands
   b. Broken trades
   c. Primary Listing Exchange manually declares a Trading Pause pursuant to Section (VII)(2) of the Plan
   d. Other

B. Determine (1), (2) and (3) for when a Trading Pause has been declared for an NMS Stock pursuant to the Plan.

II. **Raw Data** *(all Participants, except A–E, which are for the Primary Listing Exchanges only)*

A. Record of every Straddle State.
1. Ticker, date, time entered, time exited, flag for ending with Limit State, flag for ending with manual override.
2. Pipe delimited with field names as first record.

B. Record of every Price Band
1. Ticker, date, time at beginning of Price Band, Upper Price Band, Lower Price Band
2. Pipe delimited with field names as first record

C. Record of every Limit State
1. Ticker, date, time entered, time exited, flag for halt
2. Pipe delimited with field names as first record

D. Record of every Trading Pause or halt
1. Ticker, date, time entered, time exited, type of halt (i.e., regulatory halt, non-regulatory halt, Trading Pause pursuant to the Plan, other)
2. Pipe delimited with field names as first record

E. Data set or orders entered into reopening auctions during halts or Trading Pauses
1. Arrivals, Changes, Cancels, # shares, limit/market, side, Limit State side
2. Pipe delimited with field name as first record

F. Data set of order events received during Limit States

G. Summary data on order flow of arrivals and cancellations for each 15-second period for discrete time periods and sample stocks to be determined by the SEC in subsequent data requests. Must indicate side(s) of Limit State.
1. Market/marketable sell orders arrivals and executions
   a. Count
   b. Shares
   c. Shares executed
2. Market/marketable buy orders arrivals and executions
   a. Count
   b. Shares
   c. Shares executed
3. Count arriving, volume arriving and shares executing in limit sell orders above NBBO mid-point
4. Count arriving, volume arriving and shares executing in limit sell orders at or below NBBO mid-point (non-marketable)
5. Count arriving, volume arriving and shares executing in limit buy orders at or above NBBO mid-point (non-marketable)
6. Count arriving, volume arriving and shares executing in limit buy orders below NBBO mid-point
7. Count and volume arriving of limit sell orders priced at or above NBBO mid-point plus $0.05
8. Count and volume arriving of limit buy orders priced at or below NBBO mid-point minus $0.05
9. Count and volume of (3–8) for cancels
10. Include: ticker, date, time at start, time of Limit State, all data item fields in 1, last sale prior to 15-second period (null if no trades today), range during 15-second period, last trade during 15-second period

III. **At least two months prior to the end of the Pilot Period, all Participants shall provide to the SEC assessments relating to the impact of the Plan and calibration of the Percentage Parameters as follows:**

A. Assess the statistical and economic impact on liquidity of approaching Price Bands.

B. Assess the statistical and economic impact of the Price Bands on erroneous trades.

C. Assess the statistical and economic impact of the appropriateness of the Percentage Parameters used for the Price Bands.

D. Assess whether the Limit State is the appropriate length to allow for liquidity replenishment when a Limit State is reached because of a temporary liquidity gap.

E. Evaluate concerns from the options markets regarding the statistical and economic impact of Limit States on liquidity and market quality in the options markets. (Participants that operate options exchange should also prepare such assessment reports.)

F. Assess whether the process for entering a Limit State should be adjusted and whether Straddle States are problematic.

G. Assess whether the process for exiting a Limit State should be adjusted.

H. Assess whether the Trading Pauses are too long or short and whether the reopening procedures should be adjusted.

[FR Doc. 2013–21302 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70273; File No. 4–631]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of the Fourth Amendment to the National Market System Plan To Address Extraordinary Market Volatility by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

August 27, 2013.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")[1] and Rule 608 thereunder,[2] notice is hereby given that, on July 18, 2013, NYSE Euronext, on behalf of New York Stock Exchange LLC ("NYSE"), NYSE MKT LLC ("NYSE MKT"), and NYSE Arca, Inc. ("NYSE Arca"), and the following parties to the National Market System Plan: BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, and National Stock Exchange, Inc. (collectively with NYSE, NYSE MKT, and NYSE Arca, the "Participants"), filed with the Securities and Exchange Commission (the "Commission") for a proposal to amend the Plan to Address Extraordinary Market Volatility ("Plan").[3] The proposal represents the fourth amendment to the Plan ("Fourth Amendment"), and reflects changes unanimously approved by the Participants. The Fourth Amendment to the Plan proposes to make technical changes to the implementation schedule of the Plan. A copy of the Plan, as proposed to be amended, is attached as Exhibit A hereto. Pursuant to Rule 608(b)(3)(iii) under Regulation NMS,[4] the Participants designate the amendment as involving solely technical or ministerial matters. As a result, the amendment becomes effective upon filing with the Commission. The Commission is publishing this notice to solicit comments from interested persons on the Fourth Amendment to the Plan.

I. Rule 608(a) of Regulation NMS

A. Purpose of the Plan

The Participants filed the Plan in order to create a market-wide limit up-limit down mechanism that is intended to address extraordinary market volatility in "NMS Stocks," as defined in Rule 600(b)(47) of Regulation NMS under the Act.[5] The Plan sets forth procedures that provide for market-wide limit up-limit down requirements that would be designed to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands.[6] These limit up-limit down requirements would be coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

As set forth in Section V of the Plan, the price bands would consist of a Lower Price Band and an Upper Price Band for each NMS Stock.[7] The price bands would be calculated by the Securities Information Processors ("SIPs" or "Processors") responsible for consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Act.[8] Those price bands would be based on a Reference Price[9] for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period. The price bands for an NMS Stock would be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter[10] below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. Between 9:30 a.m. and 9:45 a.m. ET and 3:35 p.m. and 4:00 p.m. ET, the price bands would be calculated by applying double the Percentage Parameters.

The Processors would also calculate a Pro-Forma Reference Price for each NMS Stock on a continuous basis during Regular Trading Hours. If a Pro-Forma Reference Price did not move by one percent or more from the Reference Price in effect, no new price bands would be disseminated, and the current Reference Price would remain the effective Reference Price. If the Pro-Forma Reference Price moved by one percent or more from the Reference Price in effect, the Pro-Forma Reference Price would become the Reference Price, and the Processors would disseminate new price bands based on the new Reference Price. Each new Reference Price would remain in effect for at least 30 seconds.

When one side of the market for an individual security is outside the applicable price band, the Processors would be required to disseminate such National Best Bid[11] or National Best Offer[12] with an appropriate flag identifying it as non-executable. When the other side of the market reaches the applicable price band, the market for an individual security would enter a Limit State,[13] and the Processors would be required to disseminate such National Best Offer or National Best Bid with an appropriate flag identifying it as a Limit State Quotation.[14] All trading would immediately enter a Limit State if the National Best Offer equals the Lower Limit Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Limit Band and does not cross the National Best Offer. Trading for an NMS Stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State

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[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from Janet M. McGinness, Executive Vice President & Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated July 17, 2013 ("Transmittal Letter").

[4] 17 CFR 242.608(b)(3)(iii).

[5] 17 CFR 242.600(b)(47). *See also* Section I(H) of the Plan.

[6] *See* Section V of the Plan.

[7] Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Plan. *See* Exhibit A, *infra*.

[8] 17 CFR 242.603(b). The Plan refers to this entity as the Processor.

[9] *See* Section I(T) of the Plan.

[10] As initially proposed by the Participants, the Percentage Parameters for Tier 1 NMS Stocks (*i.e.*, stocks in the S&P 500 Index or Russell 1000 Index and certain ETPs) with a Reference Price of $1.00 or more would be five percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for Tier 2 NMS Stocks (*i.e.*, all NMS Stocks other than those in Tier 1) with a Reference Price of $1.00 or more would be 10 percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP would be the applicable Percentage Parameter set forth above multiplied by the leverage ratio of such product. On May 24, 2012, the Participants amended the Plan to create a 20% price band for Tier 1 and Tier 2 stocks with a Reference Price of $0.75 or more and up to and including $3.00. The Percentage Parameter for stocks with a Reference Price below $0.75 would be the lesser of (a) $0.15 or (b) 75 percent. *See* Letter from Janet M. McGinness, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated May 24, 2012 ("First Amendment").

[11] 17 CFR 242.600(b)(42). *See also* Section I(G) of the Plan.

[12] *Id.*

[13] A stock enters the Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer. *See* Section VI(B) of the Plan.

[14] *See* Section I(D) of the Plan.

Quotations were executed or canceled in their entirety. If the market did not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause, which would be applicable to all markets trading the security.

These limit up-limit down requirements would be coupled with trading pauses [15] to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). As set forth in more detail in the Plan, all trading centers [16] in NMS Stocks, including both those operated by Participants and those operated by members of Participants, would be required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

Under the Plan, all trading centers would be required to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processors would disseminate an offer below the Lower Price Band or bid above the Upper Price Band that nevertheless inadvertently may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; such bid or offer would not be included in National Best Bid or National Best Offer calculations. In addition, all trading centers would be required to develop, maintain, and enforce policies and procedures reasonably designed to prevent trades at prices outside the price bands, with the exception of single-priced opening, reopening, and closing transactions on the Primary Listing Exchange.

As stated by the Participants in the Plan, the limit up-limit down mechanism is intended to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks,[17] thereby protecting investors and promoting a fair and orderly market.[18] In particular, the Plan is designed to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010.[19]

The following summarizes the Fourth Amendment to the Plan and the rationale behind those changes:

The Participants propose to amend Section VIII.B of the Plan to establish a new implementation schedule for Phase II of the Plan. The Plan currently provides that six months after the initial date of Plan operations, the Plan shall fully apply (i) to all NMS Stocks and (ii) beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close. Because the initial date of Plan operations was April 8, 2013, the Plan currently provides that it shall be fully implemented by October 8, 2013. The Participants propose to amend Section VIII.B to provide that the Plan shall fully apply (i) to all NMS Stocks and (ii) beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close, eight months after the initial date of Plan operations. This will extend the time to fully implement the Plan to December 8, 2013.

The Participants propose to make this change to accommodate a longer implementation period for Phase II of the Plan, which is currently scheduled to begin on August 5, 2013, that will separate the implementation of Phase II into two stages. During the first stage of Phase II, the Plan will be rolled out to all NMS Stocks beginning at 9:30 a.m. E.T. and ending at 3:45 p.m. ET each trading day, or fifteen minutes before the close in the case of an early scheduled close. Once this stage is complete, the Participants will extend the time of Plan operations to 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close.

The Participants believe that this proposed amendment is technical and ministerial in nature because it simply extends the implementation period of the Plan and does not change any substantive elements of the Plan. The proposed modification to the implementation schedule is in response to requests by the securities industry for additional time for systems testing by Participants and the securities industry, particularly around the close.[20] The Participants believe that providing additional time for the Participants and the securities industry to test the manner by which the Plan operates around the close, particularly when there is a trading pause less than five minutes before the scheduled close of trading, is necessary and appropriate in the public interest and for the protection of investors. In addition, the Participants note that they plan to file an additional amendment to the Plan [21] to revise the manner by which the Plan would operate near the close. Specifically, the Participants will be proposing to provide that if a Trading Pause is declared for an NMS Stock within the last ten minutes of trading, the Primary Listing Exchange will not reopen the NMS Stock and will instead attempt to close the NMS Stock using established closing procedures. The Participants believe that the proposal to extend the implementation period is necessary to provide additional time for the amendment to the Plan to go through an appropriate notice and comment period and approval process.

The Participants also propose a technical, non-substantive amendment to Section VIII(A)(3) to fix a typographical error. The amended version of the Plan also includes the revised Appendix A—Schedule 1, which was updated for trading beginning on July 1, 2013. As set forth in Appendix A—Percentage Parameters, the Primary Listing Exchanges update Scheduled 1 to Appendix A semi-annually based on the fiscal year and such updates do not require a Plan amendment.

B. Governing or Constituent Documents

The governing documents of the Processor, as defined in Section I(P) of the Plan, will not be affected by the Plan, but once the Plan is implemented, the Processor's obligations will change, as set forth in detail in the Plan.

C. Implementation of Plan

The initial date of the Plan operations was April 8, 2013.

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[15] The primary listing market would declare a trading pause in an NMS Stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS Stock could occur during the trading pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

[16] As defined in Section I(X) of the Plan, a trading center shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Act.

[17] 17 CFR 242.600(b)(47).

[18] *See* Transmittal Letter, *supra* note 3.

[19] The limit up-limit down mechanism set forth in the Plan would replace the existing single-stock circuit breaker pilot. *See e.g.*, Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025); 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033).

[20] *See* Letter from T.R. Lazo, Managing Director and Associate General Counsel, SIFMA to John Ramsey, Acting Director, Division of Trading and Markets, Commission, dated July 10, 2013. The Participants noted that SIFMA supports the proposed adjustment to the implementation schedule of Phase II of the Plan. *See also* Letter from Kimberly Unger, Chief Executive Office and Executive Director, STANY, to Elizabeth M. Murphy, Secretary, Commission, dated July 10, 2013.

[21] *See* Letter from Janet M. McGinness, Executive Vice President & Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated July 17, 2013 ("Fifth Amendment"). *See also* Securities Exchange Act Release No. XXXX (July X, 2013).

D. Development and Implementation Phases

The Plan will be implemented as a one-year pilot program in two Phases, consistent with Section VIII of the Plan: Phase I of Plan implementation began on April 8, 2013 and was completed on May 3, 2013 The Participants currently anticipate that Phase II of Plan implementation will begin on August 5, 2013. Phase II of the Plan may be rolled out to applicable NMS Stocks over a period not to exceed four months and will be in two stages: (1) Applying the Plan to all NMS Stocks beginning at 9:30 a.m. ET and ending at 3:45 p.m. ET, or fifteen minutes before the close in the case of an early scheduled close; and (2) extending Plan operations to 4:00 p.m. ET, or earlier in the case of an early scheduled close. Any such roll-out period will be made available in advance of the implementation dates for Phase II of the Plan via the Participants' Web sites and trader updates, as applicable.

E. Analysis of Impact on Competition

The Participants do not believe that the Plan imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Participants also do not believe that the Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.[22]

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

The Participants state that they have no written understandings or agreements relating to interpretation of the Plan. Section II(C) of the Plan sets forth how any entity registered as a national securities exchange or national securities association may become a Participant.

G. Approval of Amendment of the Plan

Each of the Plan's Participants has executed a written amended Plan.

H. Terms and Conditions of Access

Section II(C) of the Plan provides that any entity registered as a national securities exchange or national securities association under the Act may become a Participant by: (1) Becoming a participant in the applicable Market Data Plans, as defined in Section I(F) of the Plan; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

I. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

J. Method and Frequency of Processor Evaluation

Not applicable.

K. Dispute Resolution

The Plan does not include specific provisions regarding resolution of disputes between or among Participants. Section III(C) of the Plan provides for each Participant to designate an individual to represent the Participant as a member of an Operating Committee.[23] No later than the initial date of the Plan, the Operating Committee would be required to designate one member of the Operating Committee to act as the Chair of the Operating Committee. The Operating Committee shall monitor the procedures established pursuant to the Plan and advise the Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate. Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the Commission as a request for an amendment to the Plan initiated by the Commission under Rule 608 of Regulation NMS under the Act.[24]

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Fourth Amendment to the Plan 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 4–631 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 4–631. 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 Fourth Amendment to the Plan that are filed with the Commission, and all written communications relating to the Fourth Amendment to the Plan 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 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the Participants' principal 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 4–631 and should be submitted on or before September 24, 2013.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

EXHIBIT A

Proposed new language is *italicized;* proposed deletions are in [brackets].

PLAN TO ADDRESS EXTRAORDINARY MARKET VOLATILITY SUBMITTED TO THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 608 OF REGULATION NMS UNDER THE SECURITIES EXCHANGE ACT OF 1934

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[22] 15 U.S.C. 78k–1(c)(1)(D).

[23] *See* Section I(J) of the Plan.

[24] 17 CFR 242.608.

Preamble

The Participants submit to the SEC this Plan establishing procedures to address extraordinary volatility in NMS Stocks. The procedures provide for market-wide limit up-limit down requirements that prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses to accommodate more fundamental price moves. The Plan procedures are designed, among other things, to protect investors and promote fair and orderly markets. The Participants developed this Plan pursuant to Rule 608(a)(3) of Regulation NMS under the Exchange Act, which authorizes the Participants to act jointly in preparing, filing, and implementing national market system plans.

I. Definitions

(A) "Eligible Reported Transactions" shall have the meaning prescribed by the Operating Committee and shall generally mean transactions that are eligible to update the last sale price of an NMS Stock.

(B) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(C) "Limit State" shall have the meaning provided in Section VI of the Plan.

(D) "Limit State Quotation" shall have the meaning provided in Section VI of the Plan.

(E) "Lower Price Band" shall have the meaning provided in Section V of the Plan.

(F) "Market Data Plans" shall mean the effective national market system plans through which the Participants act jointly to disseminate consolidated information in compliance with Rule 603(b) of Regulation NMS under the Exchange Act.

(G) "National Best Bid" and "National Best Offer" shall have the meaning provided in Rule 600(b)(42) of Regulation NMS under the Exchange Act.

(H) "NMS Stock" shall have the meaning provided in Rule 600(b)(47) of Regulation NMS under the Exchange Act.

(I) "Opening Price" shall mean the price of a transaction that opens trading on the Primary Listing Exchange, or, if the Primary Listing Exchange opens with quotations, the midpoint of those quotations.

(J) "Operating Committee" shall have the meaning provided in Section III(C) of the Plan.

(K) "Participant" means a party to the Plan.

(L) "Plan" means the plan set forth in this instrument, as amended from time to time in accordance with its provisions.

(M) "Percentage Parameter" shall mean the percentages for each tier of NMS Stocks set forth in Appendix A of the Plan.

(N) "Price Bands" shall have the meaning provided in Section V of the Plan.

(O) "Primary Listing Exchange" shall mean the Participant on which an NMS Stock is listed. If an NMS Stock is listed on more than one Participant, the Participant on which the NMS Stock has been listed the longest shall be the Primary Listing Exchange.

(P) "Processor" shall mean the single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act.

(Q) "Pro-Forma Reference Price" shall have the meaning provided in Section V(A)(2) of the Plan.

(R) "Regular Trading Hours" shall have the meaning provided in Rule 600(b)(64) of Regulation NMS under the Exchange Act. For purposes of the Plan, Regular Trading Hours can end earlier than 4:00 p.m. ET in the case of an early scheduled close.

(S) "Regulatory Halt" shall have the meaning specified in the Market Data Plans.

(T) "Reference Price" shall have the meaning provided in Section V of the Plan.

(U) "Reopening Price" shall mean the price of a transaction that reopens trading on the Primary Listing Exchange following a Trading Pause or a Regulatory Halt, or, if the Primary Listing Exchange reopens with quotations, the midpoint of those quotations.

(V) "SEC" shall mean the United States Securities and Exchange Commission.

(W) "Straddle State" shall have the meaning provided in Section VII(A)(2) of the Plan.

(X) "Trading center" shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Exchange Act.

(Y) "Trading Pause" shall have the meaning provided in Section VII of the Plan.

(Z) "Upper Price Band" shall have the meaning provided in Section V of the Plan.

II. Parties

(A) List of Parties

The parties to the Plan are as follows:

(1) BATS Exchange, Inc., 8050 Marshall Drive, Lenexa, Kansas 66214
(2) BATS Y-Exchange, Inc., 8050 Marshall Drive, Lenexa, Kansas 66214
(3) Chicago Board Options Exchange, Incorporated, 400 South LaSalle Street, Chicago, Illinois 60605
(4) Chicago Stock Exchange, Inc., 440 South LaSalle Street, Chicago, Illinois 60605
(5) EDGA Exchange, Inc., 545 Washington Boulevard, Sixth Floor, Jersey City, NJ 07310
(6) EDGX Exchange, Inc., 545 Washington Boulevard, Sixth Floor, Jersey City, NJ 07310
(7) Financial Industry Regulatory Authority, Inc., 1735 K Street NW., Washington, DC 20006
(8) NASDAQ OMX BX, Inc., One Liberty Plaza, New York, New York 10006
(9) NASDAQ OMX PHLX LLC, 1900 Market Street, Philadelphia, Pennsylvania 19103
(10) The Nasdaq Stock Market LLC, 1 Liberty Plaza, 165 Broadway, New York, NY 10006
(11) National Stock Exchange, Inc., 101 Hudson, Suite 1200, Jersey City, NJ 07302
(12) New York Stock Exchange LLC, 11 Wall Street, New York, New York 10005
(13) NYSE MKT LLC, 20 Broad Street, New York, New York 10005
(14) NYSE Arca, Inc., 100 South Wacker Drive, Suite 1800, Chicago, IL 60606

(B) Compliance Undertaking

By subscribing to and submitting the Plan for approval by the SEC, each Participant agrees to comply with and to enforce compliance, as required by Rule 608(c) of Regulation NMS under the Exchange Act, by its members with the provisions of the Plan. To this end, each Participant shall adopt a rule requiring compliance by its members with the provisions of the Plan, and each Participant shall take such actions as are necessary and appropriate as a participant of the Market Data Plans to cause and enable the Processor for each NMS Stock to fulfill the functions set forth in this Plan.

(C) New Participants

The Participants agree that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) becoming a participant in the applicable Market

Data Plans; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

(D) Advisory Committee

(1) *Formation.* Notwithstanding other provisions of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance with the provisions set forth in this section.

(2) *Composition.* Members of the Advisory Committee shall be selected for two-year terms as follows:

(A) *Advisory Committee Selections.* By affirmative vote of a majority of the Participants, the Participants shall select at least one representatives from each of the following categories to be members of the Advisory Committee: (1) a broker-dealer with a substantial retail investor customer base; (2) a broker-dealer with a substantial institutional investor customer base; (3) an alternative trading system; (4) a broker-dealer that primarily engages in trading for its own account; and (5) an investor.

(3) *Function.* Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, proposed material amendments to the Plan.

(4) *Meetings and Information.* Members of the Advisory Committee shall have the right to attend meetings of the Operating Committee and to receive any information concerning Plan matters; provided, however, that the Operating Committee may meet in executive session if, by affirmative vote of a majority of the Participants, the Operating Committee determines that an item of Plan business requires confidential treatment.

III. Amendments to Plan

(A) General Amendments

Except with respect to the addition of new Participants to the Plan, any proposed change in, addition to, or deletion from the Plan shall be effected by means of a written amendment to the Plan that: (1) sets forth the change, addition, or deletion; (2) is executed on behalf of each Participant; and, (3) is approved by the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act, or otherwise becomes effective under Rule 608 of Regulation NMS under the Exchange Act.

(B) New Participants

With respect to new Participants, an amendment to the Plan may be effected by the new national securities exchange or national securities association executing a copy of the Plan, as then in effect (with the only changes being the addition of the new Participant's name in Section II(A) of the Plan) and submitting such executed Plan to the SEC for approval. The amendment shall be effective when it is approved by the SEC in accordance with Rule 608 of Regulation NMS under the Exchange Act or otherwise becomes effective pursuant to Rule 608 of Regulation NMS under the Exchange Act.

(C) Operating Committee

(1) Each Participant shall select from its staff one individual to represent the Participant as a member of an Operating Committee, together with a substitute for such individual. The substitute may participate in deliberations of the Operating Committee and shall be considered a voting member thereof only in the absence of the primary representative. Each Participant shall have one vote on all matters considered by the Operating Committee. No later than the initial date of Plan operations, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee.

(2) The Operating Committee shall monitor the procedures established pursuant to this Plan and advise the Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate. The Operating Committee shall establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of this Plan and the Appendixes thereto. With respect to matters in this paragraph, Operating Committee decisions shall be approved by a simple majority vote.

(3) Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the SEC as a request for an amendment to the Plan initiated by the Commission under Rule 608 of Regulation NMS.

IV. Trading Center Policies and Procedures

All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up—limit down requirements specified in Sections VI of the Plan, and to comply with the Trading Pauses specified in Section VII of the Plan.

V. Price Bands

(A) Calculation and Dissemination of Price Bands

(1) The Processor for each NMS stock shall calculate and disseminate to the public a Lower Price Band and an Upper Price Band during Regular Trading Hours for such NMS Stock. The Price Bands shall be based on a Reference Price for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS stock over the immediately preceding five-minute period (except for periods following openings and reopenings, which are addressed below). If no Eligible Reported Transactions for the NMS Stock have occurred over the immediately preceding five-minute period, the previous Reference Price shall remain in effect. The Price Bands for an NMS Stock shall be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. The Price Bands shall be calculated during Regular Trading Hours. Between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET, or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, the Price Bands shall be calculated by applying double the Percentage Parameters set forth in Appendix A. If a Reopening Price does not occur within ten minutes after the beginning of a Trading Pause, the Price Band, for the first 30 seconds following the reopening after that Trading Pause, shall be calculated by applying triple the Percentage Parameters set forth in Appendix A.

(2) The Processor shall calculate a Pro-Forma Reference Price on a continuous basis during Regular Trading Hours, as specified in Section V(A)(1) of the Plan. If a Pro-Forma Reference Price has not moved by 1% or more from the Reference Price currently in effect, no new Price Bands shall be disseminated, and the current Reference Price shall remain the effective Reference Price. When the Pro-Forma Reference Price has moved by 1% or more from the Reference Price currently in effect, the Pro-Forma Reference Price shall become the Reference Price, and the Processor shall disseminate new Price Bands based on the new Reference

Price; provided, however, that each new Reference Price shall remain in effect for at least 30 seconds.

(B) Openings

(1) Except when a Regulatory Halt is in effect at the start of Regular Trading Hours, the first Reference Price for a trading day shall be the Opening Price on the Primary Listing Exchange in an NMS Stock if such Opening Price occurs less than five minutes after the start of Regular Trading Hours. During the period less than five minutes after the Opening Price, a Pro-Forma Reference Price shall be updated on a continuous basis to be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock during the period following the Opening Price (including the Opening Price), and if it differs from the current Reference Price by 1% or more shall become the new Reference Price, except that a new Reference Price shall remain in effect for at least 30 seconds. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) If the Opening Price on the Primary Listing Exchange in an NMS Stock does not occur within five minutes after the start of Regular Trading Hours, the first Reference Price for a trading day shall be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(C) Reopenings

(1) Following a Trading Pause in an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the next Reference Price shall be the Reopening Price on the Primary Listing Exchange if such Reopening Price occurs within ten minutes after the beginning of the Trading Pause, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Reopening Price does not occur within ten minutes after the beginning of the Trading Pause, the first Reference Price following the Trading Pause shall be equal to the last effective Reference Price before the Trading Pause. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) Following a Regulatory Halt, the next Reference Price shall be the Opening or Reopening Price on the Primary Listing Exchange if such Opening or Reopening Price occurs within five minutes after the end of the Regulatory Halt, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Opening or Reopening Price has not occurred within five minutes after the end of the Regulatory Halt, the Reference Price shall be equal to the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

VI. Limit Up-Limit Down Requirements

(A) Limitations on Trades and Quotations Outside of Price Bands

(1) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Lower Price Band or above the Upper Price Band for an NMS Stock. Single-priced opening, reopening, and closing transactions on the Primary Listing Exchange, however, shall be excluded from this limitation. In addition, any transaction that both (i) does not update the last sale price (except if solely because the transaction was reported late or because the transaction was an odd-lot sized transaction), and (ii) is excepted or exempt from Rule 611 under Regulation NMS shall be excluded from this limitation.

(2) When a National Best Bid is below the Lower Price Band or a National Best Offer is above the Upper Price Band for an NMS Stock, the Processor shall disseminate such National Best Bid or National Best Offer with an appropriate flag identifying it as non-executable. When a National Best Offer is equal to the Lower Price Band or a National Best Bid is equal to the Upper Price Band for an NMS Stock, the Processor shall distribute such National Best Bid or National Best Offer with an appropriate flag identifying it as a "Limit State Quotation".

(3) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processor shall disseminate an offer below the Lower Price Band or bid above the Upper Price Band that may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; provided, however, that any such bid or offer shall not be included in National Best Bid or National Best Offer calculations.

(B) Entering and Exiting a Limit State

(1) All trading for an NMS Stock shall immediately enter a Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer.

(2) When trading for an NMS Stock enters a Limit State, the Processor shall disseminate this information by identifying the relevant quotation (*i.e.*, a National Best Offer that equals the Lower Price Band or a National Best Bid that equals the Upper Price Band) as a Limit State Quotation. At this point, the Processor shall cease calculating and disseminating updated Reference Prices and Price Bands for the NMS Stock until either trading exits the Limit State or trading resumes with an opening or re-opening as provided in Section V.

(3) Trading for an NMS Stock shall exit a Limit State if, within 15 seconds of entering the Limit State, the entire size of all Limit State Quotations are executed or cancelled.

(4) If trading for an NMS Stock exits a Limit State within 15 seconds of entry, the Processor shall immediately calculate and disseminate updated Price Bands based on a Reference Price that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period (including the period of the Limit State).

(5) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry, the Limit State will terminate when the Primary Listing Exchange declares a Trading Pause pursuant to Section VII of the Plan or at the end of Regular Trading Hours.

VII. Trading Pauses

(A) Declaration of Trading Pauses

(1) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry during Regular Trading Hours, then the Primary Listing Exchange shall declare a Trading Pause for such NMS Stock and shall notify the Processor.

(2) The Primary Listing Exchange may also declare a Trading Pause for an NMS Stock when an NMS Stock is in a Straddle State, which is when National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State, and trading in that NMS Stock deviates from normal trading characteristics such that

declaring a Trading Pause would support the Plan's goal to address extraordinary market volatility. The Primary Listing Exchange shall develop policies and procedures for determining when it would declare a Trading Pause in such circumstances. If a Trading Pause is declared for an NMS Stock under this provision, the Primary Listing Exchange shall notify the Processor.

(3) The Processor shall disseminate Trading Pause information to the public. No trades in an NMS Stock shall occur during a Trading Pause, but all bids and offers may be displayed.

(B) Reopening of Trading During Regular Trading Hours

(1) Five minutes after declaring a Trading Pause for an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the Primary Listing Exchange shall attempt to reopen trading using its established reopening procedures. The Trading Pause shall end when the Primary Listing Exchange reports a Reopening Price.

(2) The Primary Listing Exchange shall notify the Processor if it is unable to reopen trading in an NMS Stock for any reason other than a significant order imbalance and if it has not declared a Regulatory Halt. The Processor shall disseminate this information to the public, and all trading centers may begin trading the NMS Stock at this time.

(3) If the Primary Listing Exchange does not report a Reopening Price within ten minutes after the declaration of a Trading Pause in an NMS Stock, and has not declared a Regulatory Halt, all trading centers may begin trading the NMS Stock.

(4) When trading begins after a Trading Pause, the Processor shall update the Price Bands as set forth in Section V(C)(1) of the Plan.

(C) Trading Pauses Within Five Minutes of the End of Regular Trading Hours

(1) If a Trading Pause for an NMS Stock is declared less than five minutes before the end of Regular Trading Hours, the Primary Listing Exchange shall attempt to execute a closing transaction using its established closing procedures. All trading centers may begin trading the NMS Stock when the Primary Listing Exchange executes a closing transaction.

(2) If the Primary Listing Exchange does not execute a closing transaction within five minutes after the end of Regular Trading Hours, all trading centers may begin trading the NMS Stock.

VIII. Implementation

The initial date of Plan operations shall be April 8, 2013.

(A) Phase I

(1) On the initial date of Plan operations, Phase I of Plan implementation shall begin in select symbols from the Tier 1 NMS Stocks identified in Appendix A of the Plan.

(2) Three months after the initial date of Plan operations, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply to all Tier 1 NMS Stocks identified in Appendix A of the Plan.

(3) During Phase I, the first Price Bands for a trading day shall be calculated and disseminated 15 minutes after the start of Regular Trading Hours as specified in Section (V)(A) of the Plan. No Price Bands shall be calculated and disseminated [disseminated] and therefore trading shall not enter a Limit State less than 30 minutes before the end of Regular Trading Hours.

(B) Phase II—Full Implementation

[Six] *Eight* months after the initial date of Plan operations, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply (i) to all NMS Stocks; and (ii) beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close.

(C) Pilot

The Plan shall be implemented on a one-year pilot basis.

IX. Withdrawal From Plan

If a Participant obtains SEC approval to withdraw from the Plan, such Participant may withdraw from the Plan at any time on not less than 30 days' prior written notice to each of the other Participants. At such time, the withdrawing Participant shall have no further rights or obligations under the Plan.

X. Counterparts and Signatures

The Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

IN WITNESS THEREOF, this Plan has been executed as of the ___ day of July 2013 by each of the parties hereto.

BATS EXCHANGE, INC.
BY: _____
BATS Y-EXCHANGE, INC.
BY: _____
CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED
BY: _____
CHICAGO STOCK EXCHANGE, INC.
BY: _____
EDGA EXCHANGE, INC.
BY: _____
EDGX EXCHANGE, INC.
BY: _____
FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.
BY: _____
NASDAQ OMX BX, INC.
BY: _____
NASDAQ OMX PHLX LLC
BY: _____
THE NASDAQ STOCK MARKET LLC
BY: _____
NATIONAL STOCK EXCHANGE, INC.
BY: _____
NEW YORK STOCK EXCHANGE LLC
BY: _____
NYSE MKT LLC
BY: _____
NYSE ARCA, INC.
BY: _____

Appendix A—Percentage Parameters

I. Tier 1 NMS Stocks

(1) Tier 1 NMS Stocks shall include all NMS Stocks included in the S&P 500 Index, the Russell 1000 Index, and the exchange-traded products ("ETP") listed on Schedule 1 to this Appendix. Schedule 1 to the Appendix will be reviewed and updated semi-annually based on the fiscal year by the Primary Listing Exchange to add ETPs that meet the criteria, or delete ETPs that are no longer eligible. To determine eligibility for an ETP to be included as a Tier 1 NMS Stock, all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures will be identified. Leveraged ETPs will be excluded and the list will be sorted by notional consolidated average daily volume ("CADV"). The period used to measure CADV will be from the first day of the previous fiscal half year up until one week before the beginning of the next fiscal half year. Daily volumes will be multiplied by closing prices and then averaged over the period. ETPs, including inverse ETPs, that trade over $2,000,000 CADV will be eligible to be included as a Tier 1 NMS Stock. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion,

will be deemed eligible to be included as a Tier 1 NMS Stock. The semi-annual updates to Schedule 1 do not require an amendment to the Plan. The Primary Listing Exchanges will maintain the updated Schedule 1 on their respective Web sites.

(2) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price more than $3.00 shall be 5%.

(3) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00 shall be 20%.

(4) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price less than $0.75 shall be the lesser of (a) $0.15 or (b) 75%.

(5) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

II. Tier 2 NMS Stocks

(1) Tier 2 NMS Stocks shall include all NMS Stocks other than those in Tier 1, provided, however, that all rights and warrants are excluded from the Plan.

(2) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price more than $3.00 shall be 10%.

(3) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00 shall be 20%.

(4) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price less than $0.75 shall be the lesser of (a) $0.15 or (b) 75%.

(5) Notwithstanding the foregoing, the Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP shall be the applicable Percentage Parameter set forth in clauses (2), (3), or (4) above, multiplied by the leverage ratio of such product.

(6) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

APPENDIX A—SCHEDULE 1

Ticker	Name	Primary exchange
AAXJ	iShares MSCI All Country Asia ex Japan Index Fund	NASDAQ GM
ACWI	iShares MSCI ACWI Index Fund	NASDAQ GM
ACWV	iShares MSCI All Country World Minimum Volatility Index Fund	NYSE Arca
ACWX	iShares MSCI ACWI ex US Index Fund	NASDAQ GM
AGG	iShares Core Total US Bond Market ETF	NYSE Arca
AGOL	ETFS Asian Gold Trust	NYSE Arca
AGZ	iShares Barclays Agency Bond Fund	NYSE Arca
ALD	WisdomTree Asia Local Debt Fund	NYSE Arca
AMJ	JPMorgan Alerian MLP Index ETN	NYSE Arca
AMLP	Alerian MLP ETF	NYSE Arca
AMU	ETRACS Alerian MLP Index ETN	NYSE Arca
BAB	PowerShares Build America Bond Portfolio	NYSE Arca
BAL	iPath Dow Jones-UBS Cotton Subindex Total Return Callable ETN	NYSE Arca
BBH	Market Vectors Biotech ETF	NYSE Arca
BDG	PowerShares DB Base Metals Long ETN	NYSE Arca
BFOR	Barron's 400 ETF	NYSE Arca
BIK	SPDR S&P BRIC 40 ETF	NYSE Arca
BIL	SPDR Barclays 1–3 Month T-Bill	NYSE Arca
BIV	Vanguard Intermediate-Term Bond ETF	NYSE Arca
BKF	iShares MSCI BRIC Index Fund	NYSE Arca
BKLN	PowerShares Senior Loan Portfolio	NYSE Arca
BLV	Vanguard Long-Term Bond ETF	NYSE Arca
BND	Vanguard Total Bond Market ETF	NYSE Arca
BNDX	Vanguard Total International Bond ETF	NASDAQ GM
BNO	United States Brent Oil Fund LP	NYSE Arca
BOND	Pimco Total Return ETF	NYSE Arca
BOS	PowerShares DB Base Metals Short ETN	NYSE Arca
BRF	Market Vectors Brazil Small-Cap ETF	NYSE Arca
BSJE	Guggenheim BulletShares 2014 High Yield Corporate Bond ETF	NYSE Arca
BSJF	Guggenheim BulletShares 2015 High Yield Corporate Bond ETF	NYSE Arca
BSV	Vanguard Short-Term Bond ETF	NYSE Arca
BWV	iPath CBOE S&P 500 BuyWrite Index ETN	NYSE Arca
BWX	SPDR Barclays International Treasury Bond ETF	NYSE Arca
CEW	WisdomTree Emerging Currency Fund	NYSE Arca
CFT	iShares Barclays Credit Bond Fund	NYSE Arca
CHIQ	Global X China Consumer ETF	NYSE Arca
CIU	iShares Barclays Intermediate Credit Bond Fund	NYSE Arca
CLY	iShares 10+ Year Credit Bond Fund	NYSE Arca
CMF	iShares S&P California AMT-Free Municipal Bond Fund	NYSE Arca
CORN	Teucrium Corn Fund	NYSE Arca
CSD	Guggenheim Spin-Off ETF	NYSE Arca
CSJ	iShares Barclays 1–3 Year Credit Bond Fund	NYSE Arca
CUT	Guggenheim Timber ETF	NYSE Arca
CVY	Guggenheim Multi-Asset Income ETF	NYSE Arca
CWB	SPDR Barclays Convertible Securities ETF	NYSE Arca
CWI	SPDR MSCI ACWI ex-US ETF	NYSE Arca
DBA	PowerShares DB Agriculture Fund	NYSE Arca
DBB	PowerShares DB Base Metals Fund	NYSE Arca

APPENDIX A—SCHEDULE 1—Continued

Ticker	Name	Primary exchange
DBC	PowerShares DB Commodity Index Tracking Fund	NYSE Arca
DBE	PowerShares DB Energy Fund	NYSE Arca
DBJP	db X-trackers MSCI Japan Hedged Equity Fund	NYSE Arca
DBO	PowerShares DB Oil Fund	NYSE Arca
DBP	PowerShares DB Precious Metals Fund	NYSE Arca
DBV	PowerShares DB G10 Currency Harvest Fund	NYSE Arca
DEM	WisdomTree Emerging Markets Equity Income Fund	NYSE Arca
DES	WisdomTree SmallCap Dividend Fund	NYSE Arca
DFJ	WisdomTree Japan SmallCap Dividend Fund	NYSE Arca
DGL	PowerShares DB Gold Fund	NYSE Arca
DGS	WisdomTree Emerging Markets SmallCap Dividend Fund	NYSE Arca
DGZ	PowerShares DB Gold Short ETN	NYSE Arca
DHS	WisdomTree Equity Income Fund	NYSE Arca
DIA	SPDR Dow Jones Industrial Average ETF Trust	NYSE Arca
DJCI	ETRACS DJ–UBS Commodity Index Total Return ETN	NYSE Arca
DJP	iPath Dow Jones-UBS Commodity Index Total Return ETN	NYSE Arca
DLN	WisdomTree LargeCap Dividend Fund	NYSE Arca
DLS	WisdomTree International SmallCap Dividend Fund	NYSE Arca
DOG	ProShares Short Dow30	NYSE Arca
DON	WisdomTree MidCap Dividend Fund	NYSE Arca
DTN	WisdomTree Dividend Ex-Financials Fund	NYSE Arca
DVY	iShares Dow Jones Select Dividend Index Fund	NYSE Arca
DWX	SPDR S&P International Dividend ETF	NYSE Arca
DXJ	WisdomTree Japan Hedged Equity Fund	NYSE Arca
EBND	SPDR Barclays Emerging Markets Local Bond ETF	NYSE Arca
ECH	iShares MSCI Chile Capped Investable Market Index Fund	NYSE Arca
ECON	EGShares Emerging Markets Consumer ETF	NYSE Arca
EDIV	SPDR S&P Emerging Markets Dividend ETF	NYSE Arca
EDV	Vanguard Extended Duration Treasury ETF	NYSE Arca
EEM	iShares MSCI Emerging Markets Index Fund	NYSE Arca
EEMA	iShares MSCI Emerging Markets Asia Index	NASDAQ GM
EEMV	iShares MSCI Emerging Markets Minimum Volatility Index Fund	NYSE Arca
EFA	iShares MSCI EAFE Index Fund	NYSE Arca
EFAV	iShares MSCI EAFE Minimum Volatility Index Fund	NYSE Arca
EFG	iShares MSCI EAFE Growth Index	NYSE Arca
EFV	iShares MSCI EAFE Value Index	NYSE Arca
EFZ	ProShares Short MSCI EAFE	NYSE Arca
EIDO	iSHARES MSCI Indonesia Investable Market Index Fund	NYSE Arca
ELD	WisdomTree Emerging Markets Local Debt Fund	NYSE Arca
ELR	SPDR Dow Jones Large Cap ETF	NYSE Arca
EMB	iShares JPMorgan USD Emerging Markets Bond Fund	NYSE Arca
EMLC	Market Vectors Emerging Markets Local Currency Bond ETF	NYSE Arca
EMM	SPDR Dow Jones Mid Cap ETF	NYSE Arca
ENZL	iShares MSCI New Zealand Capped Investable Market Index Fund	NYSE Arca
EPHE	iShares MSCI Philippines Investable Market Index Fund	NYSE Arca
EPI	WisdomTree India Earnings Fund	NYSE Arca
EPOL	iShares MSCI Poland Capped Investable Market Index Fund	NYSE Arca
EPP	iShares MSCI Pacific ex-Japan Index Fund	NYSE Arca
EPU	iShares MSCI All Peru Capped Index Fund	NYSE Arca
ERUS	iShares MSCI Russia Capped Index Fund	NYSE Arca
EUM	ProShares Short MSCI Emerging Markets	NYSE Arca
EWA	iShares MSCI Australia Index Fund	NYSE Arca
EWC	iShares MSCI Canada Index Fund	NYSE Arca
EWD	iShares MSCI Sweden Index Fund	NYSE Arca
EWG	iShares MSCI Germany Index Fund	NYSE Arca
EWH	iShares MSCI Hong Kong Index Fund	NYSE Arca
EWI	iShares MSCI Italy Capped Index Fund	NYSE Arca
EWJ	iShares MSCI Japan Index Fund	NYSE Arca
EWL	iShares MSCI Switzerland Capped Index Fund	NYSE Arca
EWM	iShares MSCI Malaysia Index Fund	NYSE Arca
EWN	iShares MSCI Netherlands Investable Market Index Fund	NYSE Arca
EWO	iShares MSCI Austria Capped Investable Market Index Fund	NYSE Arca
EWP	iShares MSCI Spain Capped Index Fund	NYSE Arca
EWQ	iShares MSCI France Index Fund	NYSE Arca
EWS	iShares MSCI Singapore Index Fund	NYSE Arca
EWT	iShares MSCI Taiwan Index Fund	NYSE Arca
EWU	iShares MSCI United Kingdom Index Fund	NYSE Arca
EWW	iShares MSCI Mexico Capped Investable Market Index Fund	NYSE Arca
EWX	SPDR S&P Emerging Markets SmallCap ETF	NYSE Arca
EWY	iShares MSCI South Korea Capped Index Fund	NYSE Arca
EWZ	iShares MSCI Brazil Capped Index Fund	NYSE Arca

APPENDIX A—SCHEDULE 1—Continued

Ticker	Name	Primary exchange
EXI	iShares S&P Global Industrials Sector Index Fund	NYSE Arca
EZA	iShares MSCI South Africa Index Fund	NYSE Arca
EZU	iShares MSCI EMU Index Fund	NYSE Arca
FBT	First Trust NYSE Arca Biotechnology Index Fund	NYSE Arca
FCG	First Trust ISE-Revere Natural Gas Index Fund	NYSE Arca
FDL	First Trust Morningstar Dividend Leaders Index	NYSE Arca
FDN	First Trust Dow Jones Internet Index Fund	NYSE Arca
FEM	First Trust Emerging Markets AlphaDEX Fund	NYSE Arca
FEX	First Trust Large Cap Core AlphaDEX Fund	NYSE Arca
FEZ	SPDR EURO STOXX 50 ETF	NYSE Arca
FGD	First Trust DJ Global Select Dividend Index Fund	NYSE Arca
FLOT	iShares Floating Rate Note Fund	NYSE Arca
FLRN	SPDR Barclays Investment Grade Floating Rate ETF	NYSE Arca
FM	iShares MSCI Frontier 100 ETF	NYSE Arca
FNX	First Trust Mid Cap Core AlphaDEX Fund	NYSE Arca
FRI	First Trust S&P REIT Index Fund	NYSE Arca
FTA	First Trust Large Cap Value AlphaDEX Fund	NYSE Arca
FVD	First Trust Value Line Dividend Index Fund	NYSE Arca
FXA	CurrencyShares Australian Dollar Trust	NYSE Arca
FXB	CurrencyShares British Pound Sterling Trust	NYSE Arca
FXC	CurrencyShares Canadian Dollar Trust	NYSE Arca
FXD	First Trust Consumer Discretionary AlphaDEX Fund	NYSE Arca
FXE	CurrencyShares Euro Trust	NYSE Arca
FXF	CurrencyShares Swiss Franc Trust	NYSE Arca
FXG	First Trust Consumer Staples AlphaDEX Fund	NYSE Arca
FXH	First Trust Health Care AlphaDEX Fund	NYSE Arca
FXI	iShares FTSE China 25 Index Fund	NYSE Arca
FXL	First Trust Technology AlphaDEX Fund	NYSE Arca
FXO	First Trust Financial AlphaDEX Fund	NYSE Arca
FXY	CurrencyShares Japanese Yen Trust	NYSE Arca
FXZ	First Trust Materials AlphaDEX Fund	NYSE Arca
GCC	GreenHaven Continuous Commodity Index Fund	NYSE Arca
GDX	Market Vectors Gold Miners ETF	NYSE Arca
GDXJ	Market Vectors Junior Gold Miners ETF	NYSE Arca
GII	SPDR S&P Global Infrastructure ETF	NYSE Arca
GIY	Guggenheim Enhanced Core Bond ETF	NYSE Arca
GLD	SPDR Gold Shares	NYSE Arca
GMF	SPDR S&P Emerging Asia Pacific ETF	NYSE Arca
GMM	SPDR S&P Emerging Markets ETF	NYSE Arca
GMTB	Columbia Core Bond ETF	NYSE Arca
GNR	SPDR S&P Global Natural Resources ETF	NYSE Arca
GOVT	iShares Barclays U.S. Treasury Bond Fund	NYSE Arca
GSG	iShares S&P GSCI Commodity Indexed Trust	NYSE Arca
GSP	iPath GSCI Total Return Index ETN	NYSE Arca
GSY	Guggenheim Enhanced Short Duration Bond ETF	NYSE Arca
GUNR	FlexShares Global Upstream Natural Resources Index Fund	NYSE Arca
GVI	iShares Barclays Intermediate Government/Credit Bond Fund	NYSE Arca
GWL	SPDR S&P World ex-US ETF	NYSE Arca
GWX	SPDR S&P International Small Cap ETF	NYSE Arca
GXC	SPDR S&P China ETF	NYSE Arca
GXG	Global X FTSE Colombia 20 ETF	NYSE Arca
HAO	Guggenheim China Small Cap ETF	NYSE Arca
HDGE	Ranger Equity Bear ETF	NYSE Arca
HDV	iShares High Dividend Equity Fund	NYSE Arca
HEDJ	WisdomTree Europe Hedged Equity Fund	NYSE Arca
HUSE	Huntington US Equity Rotation Strategy ETF	NYSE Arca
HYD	Market Vectors High Yield Municipal Index ETF	NYSE Arca
HYG	iShares iBoxx $ High Yield Corporate Bond Fund	NYSE Arca
HYLD	Peritus High Yield ETF	NYSE Arca
HYMB	SPDR Nuveen S&P High Yield Municipal Bond ETF	NYSE Arca
HYS	PIMCO 0–5 Year High Yield Corporate Bond Index Exchange-Traded Fund	NYSE Arca
IAI	iShares Dow Jones US Broker Dealers Index Fund	NYSE Arca
IAT	iShares Dow Jones US Regional Banks Index Fund	NYSE Arca
IAU	iShares Gold Trust	NYSE Arca
IBB	iShares Nasdaq Biotechnology Index Fund	NASDAQ GM
IBND	SPDR Barclays International Corporate Bond ETF	NYSE Arca
ICF	iShares Cohen & Steers Realty Majors Index Fund	NYSE Arca
IDU	iShares Dow Jones US Utilities Sector Index Fund	NYSE Arca
IDV	iShares Dow Jones International Select Dividend Index Fund	NYSE Arca
IDX	Market Vectors Indonesia Index ETF	NYSE Arca
IEF	iShares Barclays 7–10 Year Treasury Bond Fund	NYSE Arca

APPENDIX A—SCHEDULE 1—Continued

Ticker	Name	Primary exchange
IEFA	iShares Core MSCI EAFE ETF	NYSE Arca
IEI	iShares Barclays 3–7 Year Treasury Bond Fund	NYSE Arca
IELG	iShares Enhanced U.S. Large-Cap ETF	NYSE Arca
IEMG	iShares Core MSCI Emerging Markets ETF	NYSE Arca
IEO	iShares Dow Jones US Oil & Gas Exploration & Production Index Fund	NYSE Arca
IESM	iShares Enhanced U.S. Small-Cap ETF	NYSE Arca
IEV	iShares S&P Europe 350 Index Fund	NYSE Arca
IEZ	iShares Dow Jones US Oil Equipment & Services Index Fund	NYSE Arca
IFGL	iShares FTSE EPRA/NAREIT Developed Real Estate ex-US Index Fund	NASDAQ GM
IGE	iShares S&P North American Natural Resources Sector Index Fund	NYSE Arca
IGF	iShares S&P Global Infrastructure Index Fund	NYSE Arca
IGM	iShares S&P North American Technology Sector Index Fund	NYSE Arca
IGN	iShares S&P North American Technology-Multimedia Networking Index Fund	NYSE Arca
IGOV	iShares S&P/Citigroup International Treasury Bond Fund	NASDAQ GM
IGS	ProShares Short Investment Grade Corporate	NYSE Arca
IGV	iShares S&P North American Technology-Software Index Fund	NYSE Arca
IHE	iShares Dow Jones US Pharmaceuticals Index Fund	NYSE Arca
IHF	iShares Dow Jones US Healthcare Providers Index Fund	NYSE Arca
IHI	iShares Dow Jones US Medical Devices Index Fund	NYSE Arca
IHY	Market Vectors International High Yield Bond ETF	NYSE Arca
IJH	iShares Core S&P Mid-Cap ETF	NYSE Arca
IJJ	iShares S&P MidCap 400/BARRA Value Index Fund	NYSE Arca
IJK	iShares S&P MidCap 400 Growth Index Fund	NYSE Arca
IJR	iShares Core S&P Small-Cap ETF	NYSE Arca
IJS	iShares S&P SmallCap 600 Value Index Fund	NYSE Arca
IJT	iShares S&P SmallCap 600/BARRA Growth Index Fund	NYSE Arca
ILF	iShares S&P Latin America 40 Index Fund	NYSE Arca
ILTB	iShares Core Long-Term US Bond ETF	NYSE Arca
INDA	iShares MSCI India Index Fund	BATS
INDY	iShares India 50 ETF	NASDAQ GM
INP	iPath MSCI India Index ETN	NYSE Arca
IOO	iShares S&P Global 100 Index Fund	NYSE Arca
IPE	SPDR Barclays TIPS ETF	NYSE Arca
ISHG	iShares S&P/Citigroup 1–3 Year International Treasury Bond Fund	NASDAQ GM
ITB	iShares Dow Jones US Home Construction Index Fund	NYSE Arca
ITM	Market Vectors Intermediate Municipal ETF	NYSE Arca
ITOT	iShares Core S&P Total US Stock Market ETF	NYSE Arca
ITR	SPDR Barclays Intermediate Term Corporate Bond ETF	NYSE Arca
IVE	iShares S&P 500 Value Index Fund	NYSE Arca
IVOO	Vanguard S&P Mid-Cap 400 ETF	NYSE Arca
IVV	iShares Core S&P 500 ETF	NYSE Arca
IVW	iShares S&P 500 Growth Index Fund	NYSE Arca
IWB	iShares Russell 1000 Index Fund	NYSE Arca
IWC	iShares Russell Microcap Index Fund	NYSE Arca
IWD	iShares Russell 1000 Value Index Fund	NYSE Arca
IWF	iShares Russell 1000 Growth Index Fund	NYSE Arca
IWM	iShares Russell 2000 Index Fund	NYSE Arca
IWN	iShares Russell 2000 Value Index Fund	NYSE Arca
IWO	iShares Russell 2000 Growth Index Fund	NYSE Arca
IWP	iShares Russell Midcap Growth Index Fund	NYSE Arca
IWR	iShares Russell Midcap Index Fund	NYSE Arca
IWS	iShares Russell Midcap Value Index Fund	NYSE Arca
IWV	iShares Russell 3000 Index Fund	NYSE Arca
IXC	iShares S&P Global Energy Sector Index Fund	NYSE Arca
IXG	iShares S&P Global Financials Sector Index Fund	NYSE Arca
IXJ	iShares S&P Global Healthcare Sector Index Fund	NYSE Arca
IXN	iShares S&P Global Technology Sector Index Fund	NYSE Arca
IXP	iShares S&P Global Telecommunications Sector Index Fund	NYSE Arca
IYC	iShares Dow Jones US Consumer Services Sector Index Fund	NYSE Arca
IYE	iShares Dow Jones US Energy Sector Index Fund	NYSE Arca
IYF	iShares Dow Jones US Financial Sector Index Fund	NYSE Arca
IYG	iShares Dow Jones US Financial Services Index Fund	NYSE Arca
IYH	iShares Dow Jones US Healthcare Sector Index Fund	NYSE Arca
IYJ	iShares Dow Jones US Industrial Sector Index Fund	NYSE Arca
IYK	iShares Dow Jones US Consumer Goods Sector Index Fund	NYSE Arca
IYM	iShares Dow Jones US Basic Materials Sector Index Fund	NYSE Arca
IYR	iShares Dow Jones US Real Estate Index Fund	NYSE Arca
IYT	iShares Dow Jones Transportation Average Index Fund	NYSE Arca
IYW	iShares Dow Jones US Technology Sector Index Fund	NYSE Arca
IYY	iShares Dow Jones US Index Fund	NYSE Arca
IYZ	iShares Dow Jones US Telecommunications Sector Index Fund	NYSE Arca

APPENDIX A—SCHEDULE 1—Continued

Ticker	Name	Primary exchange
JJC	iPath Dow Jones-UBS Copper Subindex Total Return ETN	NYSE Arca
JJG	iPath Dow Jones-UBS Grains Subindex Total Return ETN	NYSE Arca
JKF	iShares Morningstar Large Value Index Fund	NYSE Arca
JKL	iShares Morningstar Small Value Index Fund	NYSE Arca
JNK	SPDR Barclays High Yield Bond ETF	NYSE Arca
JO	iPath Dow Jones-UBS Coffee Subindex Total Return ETN	NYSE Arca
JXI	iShares S&P Global Utilities Sector Index Fund	NYSE Arca
KBE	SPDR S&P Bank ETF	NYSE Arca
KBWB	PowerShares KBW Bank Portfolio	NYSE Arca
KBWD	PowerShares KBW High Dividend Yield Financial Portfolio	NYSE Arca
KIE	SPDR S&P Insurance ETF	NYSE Arca
KOL	Market Vectors Coal ETF	NYSE Arca
KRE	SPDR S&P Regional Banking ETF	NYSE Arca
KXI	iShares S&P Global Consumer Staples Sector Index Fund	NYSE Arca
LAG	SPDR Barclays Aggregate Bond ETF	NYSE Arca
LEMB	iShares Emerging Markets Local Currency Bond Fund	NYSE Arca
LQD	iShares iBoxx Investment Grade Corporate Bond Fund	NYSE Arca
LTPZ	PIMCO 15+ Year U.S. TIPS Index Exchange-Traded Fund	NYSE Arca
LWC	SPDR Barclays Long Term Corporate Bond ETF	NYSE Arca
MBB	iShares Barclays MBS Bond Fund	NYSE Arca
MBG	SPDR Barclays Mortgage Backed Bond ETF	NYSE Arca
MCHI	iShares MSCI China Index Fund	NYSE Arca
MDIV	First Trust NASDAQ US Multi-Asset Diversified Income Index Fund	NASDAQ GM
MDY	SPDR S&P MidCap 400 ETF Trust	NYSE Arca
MGC	Vanguard Mega Cap ETF	NYSE Arca
MGK	Vanguard Mega Cap Growth ETF	NYSE Arca
MGV	Vanguard Mega Cap Value ETF	NYSE Arca
MINT	PIMCO Enhanced Short Maturity Exchange-Traded Fund	NYSE Arca
MLPI	ETRACS Alerian MLP Infrastructure Index ETN	NYSE Arca
MLPN	Credit Suisse Cushing 30 MLP Index ETN	NYSE Arca
MOO	Market Vectors Agribusiness ETF	NYSE Arca
MUB	iShares S&P National Municipal Bond Fund	NYSE Arca
MXI	iShares S&P Global Materials Sector Index Fund	NYSE Arca
MYY	ProShares Short MidCap 400	NYSE Arca
NKY	MAXIS Nikkei 225 Index Fund ETF	NYSE Arca
OEF	iShares S&P 100 Index Fund	NYSE Arca
OIH	Market Vectors Oil Service ETF	NYSE Arca
OIL	iPath Goldman Sachs Crude Oil Total Return Index ETN	NYSE Arca
PALL	ETFS Physical Palladium Shares	NYSE Arca
PBJ	Powershares Dynamic Food & Beverage Portfolio	NYSE Arca
PBP	PowerShares S&P 500 BuyWrite Portfolio	NYSE Arca
PBS	Powershares Dynamic Media Portfolio	NYSE Arca
PCEF	PowerShares CEF Income Composite Portfolio	NYSE Arca
PCY	PowerShares Emerging Markets Sovereign Debt Portfolio	NYSE Arca
PDP	Powershares DWA Technical Leaders Portfolio	NYSE Arca
PFF	iShares S&P US Preferred Stock Index Fund	NYSE Arca
PGF	PowerShares Financial Preferred Portfolio	NYSE Arca
PGX	PowerShares Preferred Portfolio	NYSE Arca
PHB	PowerShares Fundamental High Yield Corporate Bond Portfolio	NYSE Arca
PHDG	PS S&P Downside Hdgd	NYSE Arca
PHO	PowerShares Water Resources Portfolio	NYSE Arca
PHYS	Sprott Physical Gold Trust	NYSE Arca
PID	PowerShares International Dividend Achievers Portfolio	NYSE Arca
PIE	PowerShares DWA Emerging Markets Technical Leaders Portfolio	NYSE Arca
PIN	PowerShares India Portfolio	NYSE Arca
PIZ	PowerShares DWA Developed Markets Technical Leaders Portfolio	NYSE Arca
PJP	Powershares Dynamic Pharmaceuticals Portfolio	NYSE Arca
PKW	PowerShares Buyback Achievers Portfolio	NYSE Arca
PPH	Market Vectors Pharmaceutical ETF	NYSE Arca
PPLT	ETFS Platinum Trust	NYSE Arca
PRF	Powershares FTSE RAFI US 1000 Portfolio	NYSE Arca
PRFZ	PowerShares FTSE RAFI US 1500 Small-Mid Portfolio	NASDAQ GM
PSK	SPDR Wells Fargo Preferred Stock ETF	NYSE Arca
PSLV	Sprott Physical Silver Trust	NYSE Arca
PSP	PowerShares Global Listed Private Equity Portfolio	NYSE Arca
PSQ	ProShares Short QQQ	NYSE Arca
PWV	PowerShares Dynamic Large Cap Value Portfolio	NYSE Arca
PXF	PowerShares FTSE RAFI Developed Markets ex-U.S. Portfolio	NYSE Arca
PXH	PowerShares FTSE RAFI Emerging Markets Portfolio	NYSE Arca
PZA	PowerShares Insured National Municipal Bond Portfolio	NYSE Arca
QAI	IndexIQ ETF Trust—IQ Hedge Multi-Strategy Tracker ETF	NYSE Arca

APPENDIX A—SCHEDULE 1—Continued

Ticker	Name	Primary exchange
QQQ	Powershares QQQ Trust Series 1	NASDAQ GM
REM	iShares FTSE NAREIT Mortgage Plus Capped Index Fund	NYSE Arca
REZ	iShares FTSE NAREIT Residential Plus Capped Index Fund	NYSE Arca
RFG	Guggenheim S&P Midcap 400 Pure Growth ETF	NYSE Arca
RJA	ELEMENTS Linked to the Rogers International Commodity Index—Agri Tot Return	NYSE Arca
RJI	ELEMENTS Linked to the Rogers International Commodity Index—Total Return	NYSE Arca
RPG	Guggenheim S&P 500 Pure Growth ETF	NYSE Arca
RPV	Guggenheim S&P 500 Pure Value ETF	NYSE Arca
RSP	Guggenheim S&P 500 Equal Weight ETF	NYSE Arca
RSX	Market Vectors Russia ETF	NYSE Arca
RTH	Market Vectors Retail ETF	NYSE Arca
RWM	ProShares Short Russell2000	NYSE Arca
RWO	SPDR Dow Jones Global Real Estate ETF	NYSE Arca
RWR	SPDR Dow Jones REIT ETF	NYSE Arca
RWX	SPDR Dow Jones International Real Estate ETF	NYSE Arca
RXI	iShares S&P Global Consumer Discretionary Sector Index Fund	NYSE Arca
SAGG	Direxion Daily Total Bond Market Bear 1x Shares	NYSE Arca
SBB	ProShares Short SmallCap600	NYSE Arca
SCHA	Schwab US Small-Cap ETF	NYSE Arca
SCHB	Schwab US Broad Market ETF	NYSE Arca
SCHD	Schwab US Dividend Equity ETF	NYSE Arca
SCHE	Schwab Emerging Markets Equity ETF	NYSE Arca
SCHF	Schwab International Equity ETF	NYSE Arca
SCHG	Schwab U.S. Large-Cap Growth ETF	NYSE Arca
SCHH	Schwab U.S. REIT ETF	NYSE Arca
SCHM	Schwab U.S. Mid-Cap ETF	NYSE Arca
SCHO	Schwab Short-Term U.S. Treasury ETF	NYSE Arca
SCHP	Schwab U.S. TIPs ETF	NYSE Arca
SCHR	Schwab Intermediate-Term U.S. Treasury ETF	NYSE Arca
SCHV	Schwab U.S. Large-Cap Value ETF	NYSE Arca
SCHX	Schwab US Large-Cap ETF	NYSE Arca
SCHZ	Schwab U.S. Aggregate Bond ETF	NYSE Arca
SCIF	Market Vectors India Small-Cap Index ETF	NYSE Arca
SCPB	SPDR Barclays Short Term Corporate Bond ETF	NYSE Arca
SCZ	iShares MSCI EAFE Small Cap Index Fund	NYSE Arca
SDIV	Global X SuperDividend ETF	NYSE Arca
SDY	SPDR S&P Dividend ETF	NYSE Arca
SGOL	ETFS Gold Trust	NYSE Arca
SH	ProShares Short S&P500	NYSE Arca
SHM	SPDR Nuveen Barclays Short Term Municipal Bond ETF	NYSE Arca
SHV	iShares Barclays Short Treasury Bond Fund	NYSE Arca
SHY	iShares Barclays 1–3 Year Treasury Bond Fund	NYSE Arca
SIL	Global X Silver Miners ETF	NYSE Arca
SIVR	ETFS Physical Silver Shares	NYSE Arca
SJB	ProShares Short High Yield	NYSE Arca
SJNK	SPDR Barclays Short Term High Yield Bond ETF	NYSE Arca
SLV	iShares Silver Trust	NYSE Arca
SLX	Market Vectors Steel Index Fund	NYSE Arca
SLY	SPDR S&P 600 Small CapETF	NYSE Arca
SMH	Market Vectors Semiconductor ETF	NYSE Arca
SNLN	Highland/iBoxx Senior Loan ETF	NYSE Arca
SOXX	iShares PHLX SOX Semiconductor Sector Index Fund	NASDAQ GM
SPHB	PowerShares S&P 500 High Beta Port ETF	NYSE Arca
SPHD	PowerShares S&P 500 High Dividend Portfolio	NYSE Arca
SPLV	PowerShares S&P 500 Low Volatility Portfolio	NYSE Arca
SPPP	Sprott Physical Platinum & Palladium Trust	NYSE Arca
SPY	SPDR S&P 500 ETF Trust	NYSE Arca
SPYG	SPDR S&P 500 Growth ETF	NYSE Arca
SPYV	SPDR S&P 500 Value ETF	NYSE Arca
SRLN	SPDR Blackstone/GSO Senior Loan ETF	NYSE Arca
STIP	iShares Barclays 0–5 Year TIPS Bond Fund	NYSE Arca
STPZ	PIMCO 1–5 Year U.S. TIPS Index Exchange-Traded Fund	NYSE Arca
SUB	iShares S&P Short Term National AMT-Free Municipal Bond Fund	NYSE Arca
SVXY	ProShares Short VIX Short-Term Futures ETF	NYSE Arca
SYLD	Cambria Shareholder Yield ETF	NYSE Arca
TAN	Guggenheim Solar ETF	NYSE Arca
TAO	Guggenheim China Real Estate ETF	NYSE Arca
TBF	ProShares Short 20+ Year Treasury	NYSE Arca
TBX	ProShares Short 7–10 Treasury	NYSE Arca
TDTT	FlexShares iBoxx 3-Year Target Duration TIPS Index Fund	NYSE Arca
TFI	SPDR Nuveen Barclays Municipal Bond ETF	NYSE Arca

APPENDIX A—SCHEDULE 1—Continued

Ticker	Name	Primary exchange
THD	iShares MSCI Thailand Capped Investable Market Index Fund	NYSE Arca
TIP	iShares Barclays TIPS Bond Fund	NYSE Arca
TLH	iShares Barclays 10–20 Year Treasury Bond Fund	NYSE Arca
TLT	iShares Barclays 20+ Year Treasury Bond Fund	NYSE Arca
TUR	iShares MSCI Turkey Index Fund	NYSE Arca
UNG	United States Natural Gas Fund LP	NYSE Arca
USCI	United States Commodity Index Fund	NYSE Arca
USMV	iShares MSCI USA Minimum Volatility Index Fund	NYSE Arca
USO	United States Oil Fund LP	NYSE Arca
UUP	PowerShares DB US Dollar Index Bullish Fund	NYSE Arca
VAW	Vanguard Materials ETF	NYSE Arca
VB	Vanguard Small-Cap ETF	NYSE Arca
VBK	Vanguard Small-Cap Growth ETF	NYSE Arca
VBR	Vanguard Small-Cap Value ETF	NYSE Arca
VCIT	Vanguard Intermediate-Term Corporate Bond ETF	NASDAQ GM
VCLT	Vanguard Long-Term Corporate Bond ETF	NASDAQ GM
VCR	Vanguard Consumer Discretionary ETF	NYSE Arca
VCSH	Vanguard Short-Term Corporate Bond ETF	NASDAQ GM
VDC	Vanguard Consumer Staples ETF	NYSE Arca
VDE	Vanguard Energy ETF	NYSE Arca
VEA	Vanguard FTSE Developed Markets ETF	NYSE Arca
VEU	Vanguard FTSE All-World ex-US ETF	NYSE Arca
VFH	Vanguard Financials ETF	NYSE Arca
VGIT	Vanguard Intermediate-Term Government Bond ETF	NASDAQ GM
VGK	Vanguard FTSE Europe ETF	NYSE Arca
VGLT	Vanguard Long-Term Government Bond ETF	NASDAQ GM
VGSH	Vanguard Short-Term Government Bond ETF	NASDAQ GM
VGT	Vanguard Information Technology ETF	NYSE Arca
VHT	Vanguard Health Care ETF	NYSE Arca
VIG	Vanguard Dividend Appreciation ETF	NYSE Arca
VIIX	VelocityShares VIX Short Term ETN	NYSE Arca
VIIZ	VelocityShares VIX Medium Term ETN	NYSE Arca
VIOO	Vanguard S&P Small-Cap 600 ETF	NYSE Arca
VIS	Vanguard Industrials ETF	NYSE Arca
VIXM	ProShares VIX Mid-Term Futures ETF	NYSE Arca
VIXY	ProShares VIX Short-Term Futures ETF	NYSE Arca
VMBS	Vanguard Mortgage-Backed Securities ETF	NASDAQ GM
VNM	Market Vectors Vietnam ETF	NYSE Arca
VNQ	Vanguard REIT ETF	NYSE Arca
VNQI	Vanguard Global ex-U.S. Real Estate ETF	NASDAQ GM
VO	Vanguard Mid-Cap ETF	NYSE Arca
VOE	Vanguard Mid-Cap Value ETF	NYSE Arca
VONE	Vanguard Russell 1000	NASDAQ GM
VONG	Vanguard Russell 1000 Growth ETF	NASDAQ GM
VONV	Vanguard Russell 1000 Value	NASDAQ GM
VOO	Vanguard S&P 500 ETF	NYSE Arca
VOOG	Vanguard S&P 500 Growth ETF	NYSE Arca
VOOV	Vanguard S&P 500 Value ETF	NYSE Arca
VOT	Vanguard Mid-Cap Growth ETF	NYSE Arca
VOX	Vanguard Telecommunication Services ETF	NYSE Arca
VPL	Vanguard FTSE Pacific ETF	NYSE Arca
VPU	Vanguard Utilities ETF	NYSE Arca
VQT	Barclays ETN+ ETNs Linked to the S&P 500 Dynamic VEQTORTM TotaL Return Index	NYSE Arca
VSS	Vanguard FTSE All World ex-US Small-Cap ETF	NYSE Arca
VT	Vanguard Total World Stock ETF	NYSE Arca
VTHR	Vanguard Russell 3000	NASDAQ GM
VTI	Vanguard Total Stock Market ETF	NYSE Arca
VTIP	Vanguard Short-Term Inflation-Protected Securities ETF	NASDAQ GM
VTV	Vanguard Value ETF	NYSE Arca
VTWG	Vanguard Russell 2000 Growth	NASDAQ GM
VTWO	Vanguard Russell 2000	NASDAQ GM
VTWV	Vanguard Russell 2000 Value	NASDAQ GM
VUG	Vanguard Growth ETF	NYSE Arca
VV	Vanguard Large-Cap ETF	NYSE Arca
VWO	Vanguard FTSE Emerging Markets ETF	NYSE Arca
VWOB	Vanguard Emerging Markets Government Bond ETF	NASDAQ GM
VXF	Vanguard Extended Market ETF	NYSE Arca
VXUS	Vanguard Total International Stock ETF	NASDAQ GM
VXX	iPATH S&P 500 VIX Short-Term Futures ETN	NYSE Arca
VXZ	iPATH S&P 500 VIX Mid-Term Futures ETN	NYSE Arca
VYM	Vanguard High Dividend Yield ETF	NYSE Arca

APPENDIX A—SCHEDULE 1—Continued

Ticker	Name	Primary exchange
WIP	SPDR DB International Government Inflation-Protected Bond ETF	NYSE Arca
WOOD	iShares S&P Global Timber & Forestry Index Fund	NASDAQ GM
XBI	SPDR S&P Biotech ETF	NYSE Arca
XES	SPDR S&P Oil & Gas Equipment & Services ETF	NYSE Arca
XHB	SPDR S&P Homebuilders ETF	NYSE Arca
XIV	VelocityShares Daily Inverse VIX Short Term ETN	NYSE Arca
XLB	Materials Select Sector SPDR Fund	NYSE Arca
XLE	Energy Select Sector SPDR Fund	NYSE Arca
XLF	Financial Select Sector SPDR Fund	NYSE Arca
XLG	Guggenheim Russell Top 50 Mega Cap ETF	NYSE Arca
XLI	Industrial Select Sector SPDR Fund	NYSE Arca
XLK	Technology Select Sector SPDR Fund	NYSE Arca
XLP	Consumer Staples Select Sector SPDR Fund	NYSE Arca
XLU	Utilities Select Sector SPDR Fund	NYSE Arca
XLV	Health Care Select Sector SPDR Fund	NYSE Arca
XLY	Consumer Discretionary Select Sector SPDR Fund	NYSE Arca
XME	SPDR S&P Metals & Mining ETF	NYSE Arca
XOP	SPDR S&P Oil & Gas Exploration & Production ETF	NYSE Arca
XPH	SPDR S&P Pharmaceuticals ETF	NYSE Arca
XRT	SPDR S&P Retail ETF	NYSE Arca
XSD	SPDR S&P Semiconductor ETF	NYSE Arca
XVZ	iPath S&P 500 Dynamic VIX ETN	NYSE Arca
YMLP	Yorkville High Income MLP	NYSE Arca
ZIV	VelocityShares Daily Inverse VIX Medium Term ETN	NYSE Arca
ZROZ	PIMCO 25+ Year Zero Coupon U.S. Treasury Index Exchange-Traded Fund	NYSE Arca

Appendix B—Data

Unless otherwise specified, the following data shall be collected and transmitted to the SEC in an agreed-upon format on a monthly basis, to be provided 30 calendar days following month end. Unless otherwise specified, the Primary Listing Exchanges shall be responsible for collecting and transmitting the data to the SEC. Data collected in connection with Sections II(E)–(G) below shall be transmitted to the SEC with a request for confidential treatment under the Freedom of Information Act. 5 U.S.C. 552, and the SEC's rules and regulations thereunder.

I. Summary Statistics

A. Frequency with which NMS Stocks enter a Limit State. Such summary data shall be broken down as follows:

1. Partition stocks by category
   a. Tier 1 non-ETP issues > $3.00
   b. Tier 1 non-ETP issues >= $0.75 and <= $3.00
   c. Tier 1 non-ETP issues < $0.75
   d. Tier 1 non-leveraged ETPs in each of above categories
   e. Tier 1 leveraged ETPs in each of above categories
   f. Tier 2 non-ETPs in each of above categories
   g. Tier 2 non-leveraged ETPs in each of above categories
   h. Tier 2 leveraged ETPs in each of above categories
2. Partition by time of day
   a. Opening (prior to 9:45 a.m. ET)
   b. Regular (between 9:45 a.m. ET and 3:35 p.m. ET)
   c. Closing (after 3:35 p.m. ET)
   d. Within five minutes of a Trading Pause re-open or IPO open
3. Track reasons for entering a Limit State, such as:
   a. Liquidity gap—price reverts from a Limit State Quotation and returns to trading within the Price Bands
   b. Broken trades
   c. Primary Listing Exchange manually declares a Trading Pause pursuant to Section (VII)(2) of the Plan
   d. Other

B. Determine (1), (2) and (3) for when a Trading Pause has been declared for an NMS Stock pursuant to the Plan.

II. Raw Data *(all Participants, except A–E, which are for the Primary Listing Exchanges only)*

A. Record of every Straddle State.

1. Ticker, date, time entered, time exited, flag for ending with Limit State, flag for ending with manual override.
2. Pipe delimited with field names as first record.

B. Record of every Price Band

1. Ticker, date, time at beginning of Price Band, Upper Price Band, Lower Price Band
2. Pipe delimited with field names as first record

C. Record of every Limit State

1. Ticker, date, time entered, time exited, flag for halt
2. Pipe delimited with field names as first record

D. Record of every Trading Pause or halt

1. Ticker, date, time entered, time exited, type of halt (i.e., regulatory halt, non-regulatory halt, Trading Pause pursuant to the Plan, other)
2. Pipe delimited with field names as first record

E. Data set or orders entered into reopening auctions during halts or Trading Pauses

1. Arrivals, Changes, Cancels, # shares, limit/market, side, Limit State side
2. Pipe delimited with field name as first record

F. Data set of order events received during Limit States

G. Summary data on order flow of arrivals and cancellations for each 15-second period for discrete time periods and sample stocks to be determined by the SEC in subsequent data requests. Must indicate side(s) of Limit State.

1. Market/marketable sell orders arrivals and executions
   a. Count
   b. Shares
   c. Shares executed
2. Market/marketable buy orders arrivals and executions
   a. Count
   b. Shares
   c. Shares executed
3. Count arriving, volume arriving and shares executing in limit sell orders above NBBO mid-point
4. Count arriving, volume arriving and shares executing in limit sell orders at or below NBBO mid-point (non-marketable)
5. Count arriving, volume arriving and shares executing in limit buy orders at or above NBBO mid-point (non-marketable)
6. Count arriving, volume arriving and shares executing in limit buy orders below NBBO mid-point
7. Count and volume arriving of limit sell orders priced at or above NBBO mid-point plus $0.05
8. Count and volume arriving of limit buy orders priced at or below NBBO mid-point minus $0.05
9. Count and volume of (3–8) for cancels
10. Include: ticker, date, time at start, time of Limit State, all data item fields in 1, last

sale prior to 15-second period (null if no trades today), range during 15-second period, last trade during 15-second period

III. At least two months prior to the end of the Pilot Period, all Participants shall provide to the SEC assessments relating to the impact of the Plan and calibration of the Percentage Parameters as follows:

A. Assess the statistical and economic impact on liquidity of approaching Price Bands.

B. Assess the statistical and economic impact of the Price Bands on erroneous trades.

C. Assess the statistical and economic impact of the appropriateness of the Percentage Parameters used for the Price Bands.

D. Assess whether the Limit State is the appropriate length to allow for liquidity replenishment when a Limit State is reached because of a temporary liquidity gap.

E. Evaluate concerns from the options markets regarding the statistical and economic impact of Limit States on liquidity and market quality in the options markets. (Participants that operate options exchange should also prepare such assessment reports.)

F. Assess whether the process for entering a Limit State should be adjusted and whether Straddle States are problematic.

G. Assess whether the process for exiting a Limit State should be adjusted.

H. Assess whether the Trading Pauses are too long or short and whether the reopening procedures should be adjusted.

[FR Doc. 2013–21301 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Wednesday, September 4, 2013 at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

An adjudicatory matter; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: August 28, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–21412 Filed 8–29–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70269; File No. SR–NASDAQ–2013–106]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7026

August 27, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 16, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes a rule change to NASDAQ Rule 7026 (Distribution Models) regarding Managed Data Solutions ("MDS"), to indicate that this option is available for non-display use only. This would conform non-display MDS in Rule 7026(b) with non-display MDS on PSX, the equity market of NASDAQ OMX PHLX LLC ("Phlx"), and on NASDAQ OMX BX, Inc. ("BX").

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to amend Rule 7026(b) to indicate that NASDAQ MDS is available for non-display use only. This would conform non-display MDS on NASDAQ with recent immediately effective proposals establishing non-display MDS on PSX and on BX.[3]

No other changes to Rule 7026 are proposed or made by this filing.

MDS has been available on NASDAQ since 2010,[4] and is, in all material respects, similar to MDS on PSX and on BX, except that MDS is currently available for display on NASDAQ. This proposal aligns and conforms the non-display nature of MDS for all three Self-Regulatory Organization ("SRO") exchanges under the umbrella of the NASDAQ OMX Group Inc., ("NASDAQ OMX Group"), namely NASDAQ, PSX, and BX.

[3] *See* Securities Exchange Release Nos. 69182 (March 19, 2013), 78 FR 18378 (March 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness implementing MDS on PSX) (the "PSX MDS filing"); and 69041 (March 5, 2013), 78 FR 15791 (March 12, 2013) (SR–BX–2013–018) (notice of filing and immediate effectiveness implementing MDS on BX) (the "BX MDS filing").

[4] *See* Securities Exchange Release No. 63276 (November 8, 2010), 75 FR 69717 (November 15, 2010) (SR–NASDAQ–2010–138) (notice of filing and immediate effectiveness implementing MDS on NASDAQ) (the "NASDAQ MDS filing"). Other markets have also implemented a managed data solution. *See*, for example, Securities Exchange Release No. 65678 (November 3, 2011), 76 FR 70178 (November 10, 2011) (SR–ISE–2011–67) (notice of filing and immediate effectiveness implementing a managed data solution on ISE).

MDS is a pricing and administrative option available on NASDAQ to firms seeking simplified market data administration for MDS products containing TotalView, Level 2, and Open View (known as "Depth Data").[5] The MDS pricing and administrative option is reflected in the established NASDAQ fee schedule in Rule 7026(b) for Distributors, non-professional, and professional subscribers[6] of NASDAQ Depth Data that provide datafeed solutions such as an Application Programming Interface (API) or similar automated delivery solutions to recipients with limited entitlement controls (e.g., usernames and/or passwords) ("Managed Data Recipients"). A Distributor must, however, first agree to reformat, redisplay and/or alter the NASDAQ Depth Data prior to retransmission, but not to affect the integrity of the NASDAQ Depth Data and not to render it inaccurate, unfair, uninformative, fictitious, misleading, or discriminatory. MDS is an optional distribution model for any retransmission datafeed product containing NASDAQ Depth Data offered by a Distributor where the Distributor manages and monitors, but does not necessarily control, the information. However, the Distributor does maintain contracts with the Managed Data Recipients and is liable for any unauthorized use by the Managed Data Recipients. The Managed Data Recipients may not distribute the information outside of their organization and may only use the information for internal, non-display use.

The Exchange believes that this proposal is reasonable, proper, and desirable. First, it aligns and conforms the equities exchanges market data products on NASDAQ, PSX, and BX. Second, NASDAQ is not aware of Managed Data Recipients using MDS in display; rather they use the Enhanced Display Solution ("EDS") for the ability to display data. Separation of MDS and EDS makes it easier for users to understand and control the use of these functionalities. Third, MDS continues to give Managed Data Recipients a reduction in fees for a specific non-display use scenario. And fourth, MDS provides Distributors and Subscribers a new unit of count option; smaller firms receive a value added service at a reduced cost to help lower even further the potential barriers to entry.[7]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.[8] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that, in addition to being consistent with the Act, this proposal is beneficial for market participants. First, the proposal aligns and conforms Market Data Recipients on NASDAQ with recipients of similar data on PSX and BX, so that Recipients of MDS on all three exchanges are treated similarly. Second, NASDAQ is not aware of Managed Data Recipients using MDS in display; rather they use EDS for the ability to display data. Separation of MDS and EDS makes it easier for users to understand and control the use of these functionalities. Third, MDS continues to give Managed Data Recipients a reduction in fees for a specific non-display use scenario. And fourth, MDS provides Distributors and Subscribers a new unit of count option; smaller firms receive a value added service at a reduced cost to help lower even further the potential barriers to entry.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, MDS has been available on NASDAQ for more than two years as a display option, and has, as proposed herein, been available on PSX and BX as a non-display option. Thus, combined with the very limited scope of this proposal, the Exchange believes that there is no burden on inter- or intra-exchange competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)[10] of the Act and Rule 19b–4(f)(6)(iii) thereunder[11] because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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

[5] MDS on PSX and on BX includes TotalView only, and as such, MDS on NASDAQ is priced higher than on PSX and on BX. As noted in this proposal, there is no change to the fee structure, or any other aspect of MDS, on NASDAQ.

[6] The term "Distributor" shall have the same meaning as set forth in NASDAQ Rule 7019(c). The term "non-professional" shall have the same meaning as set forth in NASDAQ Rule 7011(b). MDS fees do not change, and remain the same: An administrative fee of $1,500/month per Distributor; a professional subscriber fee of $300/month per subscriber; and a non-professional fee of $60/month per subscriber.

[7] Moreover, MDS may ease the administrative burden on Subscribers by refocusing administrative costs from smaller recipients to larger Distributors that are better able to absorb the cost through economies of scale.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Number SR–NASDAQ–2013–106 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–2013–106. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2013–106, and should be submitted on or before September 24, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21297 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70264; File No. SR–BATS–2013–045]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish a Revenue Sharing Program

August 27, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 15, 2013, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposed rule change to establish a revenue sharing program with Interactive Data Corporation, acting by and through its division, Interactive Data Desktop Solutions, and its subsidiary, Interactive Data Online Properties, Inc. (collectively "IDC"), whereby the Exchange will make available, through IDC, private labeled versions of IDC's Market–Q and LiveCharts products.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish a non-exclusive revenue sharing program with IDC whereby the Exchange will make available new market data offerings consisting of private labeled versions of IDC's Market–Q and LiveCharts products. Pursuant to an agreement between IDC and the Exchange, the private labeled products will be marketed by the Exchange by featuring and advertising them on the Exchange's Web site. Market–Q will be marketed under the private label name "BATS Investor Pro" and LiveCharts will be marketed under the private label name "BATS Investor RT" (BATS Investor Pro and BATS Investor RT, collectively, the "Private Labeled Products"). Under the agreement, the Exchange will receive 25% of the total monthly subscription fees received by IDC from parties who have registered to use the Private Labeled Products and who first subscribe as a result of the Exchange's marketing activities under the agreement, less certain fees and taxes. IDC will operate and maintain the Private Labeled Products and will provide first line technical support, accounting and contract administration services for the Private Labeled Products. The Exchange will not bill or contract with any subscriber directly.

Market-Q, which was developed by IDC, is a browser-based, front-end product that provides global real-time pricing information, corporate actions and dividend data, news, research, and other financial and market data, including charts and alerts. The data includes a broad range of global exchanges and indices, including performance data, historical pricing, fixed income, commodities, foreign exchange, exchange-traded equity and derivative securities.[3] LiveCharts, which was also developed by IDC, is a browser-based, front-end product that provides charting and technical analysis of global real-time market data.[4] BATS Investor Pro and BATS Investor RT will include only market data from the Exchange.[5]

[3] *http://www.interactivedata.com/uploads/File/MArketQ.pdf.*

[4] *http://www.esignal.com/livecharts/default.aspx.*

[5] Subscribers of BATS Investor Pro and BATS Investor RT may, for an additional fee, supplement their subscriptions to include market data in addition to Exchange data. This fee is not included as part of the Exchange's revenue sharing program with IDC.

The Exchange intends to submit a separate proposed rule change with pricing details for the Private Labeled Products.

Various data recipients may wish to subscribe to and use the Private Labeled Products. For instance, data recipients that receive real-time market information on public Web sites or subscribe to dynamic stock tickers, portfolio trackers, price/time graphs and other visual systems can use the Private Labeled Products in lieu of using such products. Such data recipients may prefer the Private Labeled Products to view Exchange data to the extent they are familiar with such products that include data from other markets. The Exchange notes that similar market data products are offered by IDC containing data from other exchanges and market centers.

No Exchange participant is required to subscribe to the Private Labeled Products because the same information is available in the Exchange's other data feeds.[6] Exchange participants can also gain access to BATS quotations and last sale prices that are integrated with the prices that other markets make available through the Security Information Processors ("SIPs") for the national market system plans responsible for disseminating consolidated market information. Indeed, even though the Private Labeled Products may provide to some participants an efficient alternative to the consolidated price information that investors and broker-dealers can receive on a consolidated basis from the SIPs, the Exchange believes that the information that the Exchange contributes to the consolidated tape and the increasingly lower latency of the data feeds offered by the SIPs will continue to satisfy the needs of the vast majority of individual and professional investors. Although certain data recipients might supplement their access to data by subscribing to the Private Labeled Products, it is unlikely that data recipients or distributors will replace the consolidated feeds provided by the SIPs and/or their direct access to BATS data feeds as a result of the availability of the Private Labeled Products. The Exchange represents that it will not distribute information to IDC for inclusion in the Private Labeled Products on a more timely basis than it makes available the data to all Exchange participants that receive such data feeds or that is provided to the SIPs for consolidation and dissemination, nor will IDC have any special or different access to the Exchange's data as a result of IDC's arrangement with the Exchange. In addition, the Exchange represents that IDC has not (and will not) receive any preferential treatment as a result of IDC's arrangement with the Exchange.

All Exchange participants, including IDC, that receive BATS data directly from the Exchange pay connectivity fees to access such data through logical and physical ports connected to the Exchange's systems. Beginning July 1, 2013, the Exchange implemented fees for the PITCH (including both TCP PITCH and Multicast PITCH) and TOP data products, and revised the fee for the Last Sale Feed data product. Accordingly all Exchange participants, including IDC, are charged standard fees for the receipt, use or redistribution of such data feeds. The Exchange continues to offer its other market data products to data recipients free of charge. Under the new agreement with IDC, IDC will continue to receive any of the various BATS data feeds that it currently subscribes to on the same terms as other Exchange participants, and will continue to pay any port fees that it currently pays to the Exchange to receive such data feeds. Additionally, beginning July 1, 2013, IDC became subject to data fees payable to the Exchange for such data feeds on the same terms as all other Exchange participants that receive, use or redistribute BATS data from the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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 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. The Exchange believes the proposed rule will allow Exchange participants to make better-informed and more efficient trading decisions by making available the Private Labeled Products. In addition, the Exchange notes that the revenue sharing program is not exclusive as between the Exchange and IDC. Any recipient of BATS data feeds is permitted to redistribute such data, whether through a revenue sharing arrangement with BATS or otherwise, or provide products and services similar to those being offered by IDC, provided that such recipient (including IDC) has entered into the required contractual arrangements with the Exchange.[9]

Lastly, these products are completely optional in that no consumer is required to purchase any of them and only those consumers that deem such products to be of sufficient overall value and usefulness will purchase them. To the extent consumers do purchase the Private Labeled Products, the revenue generated will offset the Exchange's fixed costs of operating and regulating its trading platforms, including the continued operation of data feeds that will supply data to be used in the Private Labeled Products. It will also help the Exchange cover its costs in developing and running that platform, as well as ongoing infrastructure costs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, similar market data products are offered by IDC containing data from other exchanges and market centers. Further, the revenue sharing program is not exclusive as between the Exchange and IDC. Any recipient of BATS data feeds is permitted to redistribute such data, whether through a revenue sharing arrangement with BATS or otherwise, or provide products and services similar to those being offered by IDC, provided that such recipient (including IDC) has entered into the required contractual arrangements with the Exchange. The Exchange represents that it will not distribute information to IDC for inclusion in the Private Labeled

[6] The Exchange currently offers various data feeds, including, but not limited to, TCP PITCH and Multicast PITCH, which are depth of book data feeds containing real-time quotation and transaction data from the Exchange; DROP, which contains order execution and other information (e.g., modifications and cancellations) specific to the Exchange activity of one or more Exchange participants; and TOP, which contains real-time top of book quotation and transaction information from the Exchange. Beginning July 1, 2013, the Exchange implemented fees for the PITCH (including both TCP PITCH and Multicast PITCH) and TOP data products, and revised the fee for the Last Sale Feed data product. The Exchange continues to offer its other market data products to data recipients free of charge.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] Recipients of BATS data feeds, either directly from the Exchange or from a third-party data vendor, that seek to redistribute such data, either internally or externally, are required to execute a BATS Global Markets, Inc. Data Agreement, an Exchange Data Feed Order Form and System Description, List of Affiliates (if applicable), and Service Facilitator List (if applicable).

Products on a more timely basis than it makes available the data to all Exchange participants that receive such data feeds or that is provided to the SIPs for consolidation and dissemination, nor will IDC have any special or different access to the Exchange's data as a result of IDC's arrangement with the Exchange. In addition, the Exchange represents that IDC has not (and will not) receive any preferential treatment as a result of IDC's arrangement with the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange believe that such a waiver would allow it to immediately offer the Private Labeled Products to market participants enabling them to make better-informed and more efficient trading decisions. In addition, the Exchange notes that the Private Labeled Products are optional and can be used by a wide variety of market participants for a wide variety of purposes. For these reasons, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BATS–2013–045 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2013–045. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2013–045, and should be submitted on or before September 24, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21295 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii), the Exchange is required to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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 Commission has determined to waive the requirement that BATS provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[12] 17 CFR 240.19b–4(f)(6).

[13] Rule 19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70271; File No. SR–Phlx–2013–88]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Provide Additional Trading Information and Rule Clarity to Phlx Participants

August 27, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2013, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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 [sic] provide additional trading information and rule clarity to Phlx Participants to attract their Complex Orders to the Exchange.

The text of the proposed rule change is below. Proposed new language is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

italicized; proposed deletions are in brackets.

* * * * *

Rule 1080. Phlx XL and Phlx XL II

(a)–(p) No change.

••• *Commentary:*----------

.01–.07 No change.

.08 Complex Orders on Phlx XL.

(a)–(d) No change.

(e) Process for Complex Order Live Auction ("COLA"). Complex Orders on the Complex Order Book ("CBOOK," as defined below) may be subject to an automated auction process.

(i) No change.

(ii) Initiation of a COLA. Upon the identification of the COLA-eligible order by the Phlx XL system, the Exchange will send a broadcast message to Phlx XL participants indicating that a COLA has been initiated. The broadcast message will identify the Complex Order Strategy, *and* the size, *side and price* of the COLA-eligible order and any contingencies, if applicable (such as, without limitation, All-Or-None)[, but will not identify the side of the market or the price].

(iii)–(vi) No change.

(vii) Firm Quote Requirement for COLA-Eligible Orders. COLA Sweeps in response to a COLA broadcast represent non-firm interest that can be modified at any time prior to the end of the COLA Timer. At the end of the COLA Timer, COLA Sweeps shall be firm only with respect to the COLA-eligible order for which it is submitted, provided that COLA Sweeps that exceed the size of a COLA-eligible order are also eligible to trade with other incoming COLA-eligible orders, *COLA Sweeps and any other interest* [that are] received during the COLA Timer after the initial COLA-eligible order has been executed in its entirety. *Remaining interest trades at its entered price. If such interest crosses, the execution price is based on the price of the smaller sized interest. If the interest is equal in size, the execution price is the midpoint of the two prices, rounded, if necessary, up to the closest minimum trading increment.* Any COLA Sweeps not accepted in whole or in a permissible ratio will expire at the end of the COLA Timer *once all executions are complete.*

(viii) Complex Orders resting on the CBOOK, and incoming electronic Complex Orders *and COLA Sweeps* that are received prior to the expiration of the COLA Timer, (collectively, for purposes of this rule, "incoming Complex Orders") representing the same Complex Order Strategy as a COLA-eligible order will impact the original COLA as follows:

(A) At the end of the COLA Timer, the Phlx XL system will determine the price and size of COLA Sweeps and any orders that were received during the COLA Timer that are unrelated to the COLA but nonetheless are eligible to participate in the COLA as set forth below.

(B) Incoming Complex Orders on the same side of the market as the COLA-eligible order. Incoming Complex Orders that were received during the COLA Timer for the same Complex Order Strategy as the COLA-eligible order that are on the same side of the market will join the COLA. The original COLA-eligible order has priority at all price points (i.e., multiple COLA Sweep Prices) over the incoming Complex Order(s), regardless of the price of the incoming Complex Order. The incoming Complex Order shall not be eligible for execution *against interest on the opposite side of the market from the COLA-eligible order* until the COLA-eligible order is executed in its entirety. If the incoming Complex Order is not executed in its entirety, the system will not initiate a new COLA. Any remaining contracts, *other than COLA Sweeps,* will be placed on the CBOOK, subject to other instructions.

(C) Incoming Complex Orders on the opposite side of the market from the COLA-eligible order.

(1) Incoming customer Complex Orders that are received during the COLA Timer on the opposite side of the market from the COLA-eligible order with a price equal to or better than the best *priced Complex Order or* COLA Sweep [Price] will be executed against the COLA eligible order (which will be executed in its entirety first as described in sub-paragraph (B) above) *or other Complex Orders or COLA Sweeps* as follows:

(a) If such incoming customer Complex Order is a limit order at the same price as the best *priced Complex Order or* COLA Sweep [Price], the incoming Complex Order will be executed at *such* [the Sweep P]price.

(b) If such incoming Complex Order is a limit order that improved the best *priced Complex Order or* COLA Sweep [Price], the incoming customer Complex Order will be executed at the mid-point of the best *priced Complex Order or* COLA Sweep [Price] and the limit order price, rounded, if necessary, to the closest minimum trading increment to the benefit of the COLA-eligible order.

(c) If such incoming customer Complex Order is a market order or a limit order that crosses the cPBBO, the incoming Complex Order will be executed at the mid-point of the cPBBO on the same side of the market as the COLA-eligible order and the best *priced Complex Order or COLA* Sweep [Price], rounded, if necessary, to the closest minimum trading increment to the benefit of the COLA-eligible order.

(d) If multiple customer Complex Orders are received on the opposite side of the market from the COLA-eligible order, such orders will be executed in the order in which they were received at each price level.

(e) If the COLA-eligible order is executed in its entirety and there are remaining bids or offers from the incoming Complex Order(s), the Phlx XL system will *execute such interest against other Complex Orders or COLA Sweeps in the COLA and subsequently* place [such] *residual* bids or offers, *other than COLA Sweeps,* onto the CBOOK, subject to other instructions.

(2) Incoming non-customer Complex Orders that are received during the COLA Timer on the opposite side of the market from the COLA-eligible order with a price equal to or better than the best *priced Complex Order or* COLA Sweep [Price] will be executed against the COLA eligible order *(which will be executed in its entirety first as described in sub-paragraph (B) above) or other Complex Orders or COLA Sweeps* as follows:

(a) If such incoming non-customer Complex Order is a limit order at the same price as the best *priced Complex Order or* COLA Sweep [Price], the incoming non-customer Complex Order will be executed at *such* [the Sweep P]price, subject to the provisions set forth sub-paragraph (e) above.

(b) If such incoming non-customer Complex Order is a limit order that improved the best *priced Complex Order or* COLA Sweep [Price], the incoming non-customer Complex Order will be executed at the limit order price.

(c) If such incoming non-customer Complex Order is a market order or a limit order that crosses the cPBBO, the incoming non-customer Complex Order will be executed at a price of $0.01 better than the cPBBO on the same side of the market as the COLA-eligible order.

(d) If multiple non-customer Complex Orders are received on the opposite side of the market from the COLA-eligible order, such orders will be executed in the order in which they were received at each price level.

(e) If the COLA-eligible order is executed in its entirety and there are remaining bids or offers from the incoming non-customer Complex Order(s), the Phlx XL system will *execute such interest against other Complex Orders or COLA Sweeps in the COLA and subsequently* place [such]

residual bids or offers, *other than COLA Sweeps*, onto the CBOOK, subject to other instructions.

(3) Incoming Complex Orders that were received during the COLA Timer on the opposite side of the market from the COLA-eligible order with a price inferior to any other COLA Sweep [Price(s)] *or Complex Order* will be executed against the COLA-eligible order after all interest at the better [COLA Sweep P]price(s) has/have been executed. *After the initial COLA-eligible order has been executed in its entirety, incoming Complex Orders remaining unexecuted shall be eligible to trade with other Complex Orders and COLA Sweeps at their entered price. If, after the COLA-eligible order has been executed, there exist Complex Orders and/or COLA Sweeps on the opposite side of the market from the COLA-eligible order which cross the price of other Complex Orders or COLA Sweeps on the same side of the market from the COLA-eligible order, the execution price of such crossing interest is based on the price of the smaller sized interest. If the crossing interest is equal in size, the execution price is the midpoint of the two prices, rounded, if necessary, up to the closest minimum trading increment.* The system will treat any unexecuted remaining contracts in the incoming Complex Order as a new Complex Order, and will not initiate a new COLA. Such unexecuted remaining contracts, *other than COLA Sweeps*, will be placed on the CBOOK, subject to other instructions.

(ix) No change.

(f)–(i) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to provide additional trading information and rule clarity to Phlx Participants to attract their Complex Orders to the Exchange. The Exchange's Complex Order System, which is governed by Rule 1080.08, includes the COLA, an automated auction for seeking additional liquidity and price improvement for Complex Orders. When the Exchange receives a COLA-eligible order that triggers a COLA, the system broadcasts information about the COLA-eligible order—the "COLA Message." The duration of the COLA is fixed and measured by the COLA Timer. During the COLA Timer, Phlx XL participants[3] may submit "COLA Sweeps," which are bids and/or offers on either or both side(s) of the market by submitting one or more bids or offers that improve the cPBBO. Also during the COLA Timer, Phlx members may enter other Complex Orders or COLA Sweeps at any price, as explained further below. These COLA Sweeps and Complex Orders may or may not be submitted in direct response to the COLA-eligible-order. How the XL System processes such COLA Messages and COLA Sweeps is explained further below.

COLA Message

Currently, upon the identification of the COLA-eligible order by the Phlx XL system, the Exchange will broadcast a COLA Message to Phlx XL participants indicating that a COLA has been initiated. The COLA Message identifies the Complex Order Strategy, the size of the COLA-eligible order, and any contingencies, if applicable (such as, without limitation, All-Or-None), but it does not identify the side of the market or the price. The COLA Message is sent over TOPO Plus Orders,[4] the Exchange's market data feed for subscribers interested in the detailed information it offers, including messages relating to Complex Orders. The Specialized Quote Feed ("SQF") also contains COLA Messages.[5] Like auction messages on multiple exchanges, the COLA Message is designed to attract responsive interest.

The Exchange now proposes to add the side and price of the Complex Order to the COLA Message. The Exchange believes that including the side and price of the order is helpful to users, may attract additional auction responses, and therefore increase Complex Order fill rates. The Exchange notes that other exchanges include such additional information (side and price) respecting their various auctions and, therefore, that broadcasting such information is consistent with the Exchange Act.[6]

COLA Responses and Processing

Currently, during the COLA, participant responses can be entered at multiple prices and can take the form of Complex Orders or COLA Sweeps. Specifically, Complex Orders can be entered into the COLA[7] by non-broker-dealer customers, non-market-maker off-floor broker-dealers,[8] Floor Brokers,[9] professional customers[10] and non-Phlx market makers,[11] as well as Exchange SQTs, RSQTs, non-SQT ROTs and specialists (together, market makers)[12] Exchange SQTs, RSQTs, and specialists also can participate in a COLA by submitting COLA Sweeps.

Today, in the absence of information about the price and side of a COLA-eligible order, orders submitted in response to a COLA Message can be on either the same side or the opposite side of the COLA-eligible order. When a market maker submits a COLA Sweep or a Complex Order on the opposite side of the market from the COLA-eligible order during a COLA, those orders are treated identically in the COLA, *except* that unexecuted COLA Sweeps expire and unexecuted Complex Orders are eligible for the Complex Order Book ("CBOOK").[13] In other words, there is

[3] COLA Sweeps can only be entered by Phlx XL Participants who quote electronically as market makers for their own account (Streaming Quote Traders ("SQTs"), Remote Streaming Quote Traders ("RSQTs") and specialists). Because non-SQT ROTs do not quote electronically, they cannot enter COLA Sweeps, which are electronic. *See* Rule 1014(b)(ii)(C) and Rule 1080.08(e)(ix).

[4] Securities Exchange Act Release No. 60877 (October 26, 2009), 74 FR 56255 (October 30, 2009) (SR–Phlx–2009–92).

[5] Securities Exchange Act Release No. 63034 (October 2 [sic], 2010), 75 FR 62441 (October 8, 2010) (SR–Phlx–2010–124).

[6] *See* CBOE Rule 6.53C(d)(ii) and ISE Rule 723(c). However, the CBOE does not broadcast the price of the complex order and rejects same side responses to its COA under its Rule 6.53C(d)(iii)(1). ISE sends a broadcast message when there is a crossing transaction in ISE's Price Improvement Mechanism that includes the series, size, side and price of the order (including complex orders).

[7] In each case, Complex Orders can be entered, generally, not just into the COLA, by all of these types of market participants.

[8] Rule 1080.08(b)(i).

[9] Rule 1080.08(b)(iii).

[10] Rule 1000(b)(14). The term "professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A professional will be treated in the same manner as an off-floor broker-dealer for purposes of Rule 1080.08.

[11] Rule 1080.08(b)(ii).

[12] Rules 1014(b) and 1080.08(b)(ii).

[13] *See* Rules 1080.08(e)(vii), (viii)(B), (viii)(C)(1)(e), and (viii)(C)(2)(e). The Exchange represents that this sentence is an accurate description of how the system operates, which differs from the Exchange rule text. The Exchange commits to filing a proposed rule change to conform its rule text with respect to the priority of COLA sweeps and orders. *See* email to Kathleen

no meaningful advantage to submitting a COLA Sweep versus a Complex Order.

The same is true regarding Complex Orders submitted during a COLA. Because Complex Orders are not specifically marked as "COLA responses," the Phlx XL System cannot identify which Complex Orders are truly intended to respond to the auction and which are merely coincidental.[14] In any case, there is no difference in treatment between any participant submitting a Complex Order (or in the case of certain market makers, a COLA Sweep), whether intended to respond to a COLA message or submitted coincidentally.

This is true of orders on both the same side of the market as the COLA-eligible order as well as those on the opposite side.[15] The Exchange currently takes into account COLA responses and Complex Orders on the same side of the market as the COLA-eligible order and it will continue to do so. Again, market makers can submit Complex Orders or COLA Sweeps on the same side of the market as the COLA-eligible order. Such orders are treated the same, except COLA Sweeps expire.[16] As with opposite side interest, there is no advantage to submitting a COLA Sweep versus a Complex Order on the same side of the market.[17]

Both currently and under this proposal, orders submitted on the same side of the market as the COLA-eligible order are and will be considered for execution only after the Complex Order that initiated the COLA is executed.[18] Today, orders may be submitted on the same side of the COLA-eligible order because market participants are unaware of whether the COLA-eligible order is a buy or a sell order. Same-side interest does not and will not interact with the COLA-eligible order; however, it may still interact with orders on the opposite side of the market that are submitted during the COLA Timer. This would occur when the COLA is over-subscribed. This ensures that the COLA-eligible order that initiated the COLA maintains priority over any interest that was entered during the COLA on the same side as the COLA-eligible order. It also ensures that there is no advantage to submitting interest on the same side as the COLA-eligible order. This structure maximizes the interest executed in the COLA, whether on the same side of the market or the opposite side of the market from the COLA-eligible order, and whether it is a responsive Complex Order, a COLA Sweep, or a coincidental Complex Order.

Under the proposal, participants will still be permitted to submit orders on the same side of the market as the COLA-eligible order even though they will be aware of whether the COLA-eligible order is a buy or a sell order. Such behavior is neither irrational nor nefarious because, as stated above, same side interest may be executed in the COLA after the COLA-eligible order has been fully executed. While some options exchanges do not accept same side interest or responses from certain types of market participants in their respective auctions for complex orders, the Exchange opted not to change its current practice of accepting same side interest for several reasons. First, accepting same side interest is rational and consistent with the Exchange Act, given the possibility of execution. Second, the Exchange believes that continuing to allow the entry of same-side interest does not increase the potential for manipulation or gaming because same-side interest, along with all other interest, is processed according to strict and transparent priority rules.[19] Third, continuing to accept same side interest will not affect the outcome of the COLA; conversely, a change to current behavior could cause issues for participants currently utilizing the Phlx Complex Orders system.

The Exchange also notes that the proposal to show the price of the COLA-eligible order does not provide any advantage to same side or opposite side COLA Sweeps or Complex Orders in relation to their execution. COLA executions will continue to occur at best price(s) available at the end of the COLA Timer. However, it would not be irrational to submit responsive COLA Sweeps or Complex Orders that are priced inferior to the COLA-eligible order because such interest may be executed in the COLA after the COLA-eligible order is fully executed. Interest that is priced away from the COLA-eligible order will only be executed if it is executable against other remaining interest after the COLA-eligible order has been executed in its entirety. Again, the Exchange believes that there is no increased potential for gaming and manipulation in this case, and the Exchange will surveil to ensure that this is true in practice.

COLA Sweeps Trading with COLA Sweeps

The Exchange proposes to amend Rule 1080.08(e)(vii) and (viii) to provide that COLA Sweeps can trade not only with the COLA-eligible order, but also with COLA Sweeps and other Complex Orders, both on the same side and on the opposite side of the market as the COLA-eligible order.[20] The proposed new language in Rule 1080.08(e)(vii) and (viii) is consistent with the current processing and purposes of the COLA, which is to attract and execute as much interest as possible at the best price(s) without causing some responses to remain unexecuted. The Exchange also proposes to amend Rule 1080.08(e)(viii) to provide that the COLA-eligible order is executed at the best prices available, inclusive of both COLA Sweeps and Complex Orders, at the end of the COLA Timer. The Exchange currently takes into account both COLA Sweeps and Complex Orders at the best prices when executing the COLA-eligible order. The proposed new language in Rule 1080.08(e)(viii) provides that both COLA Sweeps and Complex Orders at the best prices are considered for execution at the end of the COLA.

Execution Prices

The Exchange is proposing to add to Rule 1080.08(e)(vii) and (viii) language stating that, at the end of the COLA, remaining interest trades at its entered price. If such interest crosses, the execution price is based on the price of the smaller sized interest. If the interest is equal in size, the execution price is

Gross and Yue Ding, Division of Trading and Markets, Commission, from Edith Hallahan, Exchange, dated August 27, 2013 ("Phlx Email").

[14] *See e.g.*, Rule 1080.08(e)(viii)(B), which addresses incoming Complex Orders on the same side of the market as the COLA-eligible order. The Exchange is modifying the term "incoming Complex Order" to provide that it includes both responsive Complex Orders and COLA Sweeps, as well as Complex Orders [sic].

[15] *See e.g.*, Rule 1080.08(e)(viii)(C), which the Exchange is amending to address incoming Complex Orders on the opposite side of the market as the COLA-eligible order, which includes both Complex Orders and COLA Sweeps.

[16] See Phlx Email, *supra* note 13.

[17] *See id.*

[18] See Rule 1080.08(e)(viii)(C)(3), which the Exchange is modifying to explain in greater detail how the Phlx XL system currently processes orders on either side of the COLA-eligible order after the COLA-eligible order is fully executed.

[19] The Exchange will, of course, monitor COLAs, including the entry and execution of such same side orders, to detect and punish gaming and manipulation.

[20] Rule 1080.08(e)(viii)(A) currently states that at the end of the COLA Timer, the Phlx XL system will determine the price and size of COLA Sweeps and any orders that were received during the COLA Timer that are unrelated to the COLA but nonetheless are eligible to participate in the COLA. This was intended to cover COLA Sweeps both on the opposite side and on the same side of the market as the COLA-eligible order. The Exchange never intended to disregard COLA Sweeps on the same side of the market as the COLA-eligible order, and, instead, believes that this language contemplated including all interest received in response to a COLA regardless of the side of the market. Nonetheless, the Exchange is modifying Rule 1080.08(e)(viii) in multiple places to establish its proper application to orders on either side of the market as the COLA-eligible order.

the midpoint of the two prices, rounded, if necessary, up to the closest minimum trading increment. The COLA-eligible order is executed first and then all other interest is addressed, taking into account its price.[21] The Rule does not currently specify how the execution prices of the remaining interest are determined.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[22] in general, and with Section 6(b)(5) of the Act,[23] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Specifically, providing additional information to market participants interested in Complex Orders should promote just and equitable principles of trade by reducing the risk that a COLA-eligible Complex Order does not trade and increasing the potential for responses to the COLA. It should also foster cooperation and coordination with persons engaged in facilitating transactions in securities, particularly the COLA-eligible order, by attracting additional responsive interest and thereby increasing the likelihood of a trade. More responsive interest should result in more trading and more efficient trading. By providing more information, the proposal should also result in better prices, as responding market participants will be better able to manage their capital and focus on responding to orders they are truly interested in trading against. Because the proposal is likely to lead to an increase in Exchange volume, it is pro-competitive and should enable the Exchange to better compete against other markets that provide complex order functionality. Accordingly, consistent with Section 6(b)(8),[24] the Exchange believes that the proposal does not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as described further below.

The Exchange is also proposing to correct the rule text to reflect that COLA Sweeps on the same side of the market as a COLA-eligible Complex Order can be executed in the COLA, and that COLA Sweeps can trade with other COLA Sweeps. The Exchange believes that it is consistent with promoting just and equitable principles of trade to include same side COLA Sweeps in the COLA, because it results in more interest being executed in the COLA. The Exchange also believes that the proposal is not unfairly discriminatory, because it includes same side COLA Sweeps in executions after the COLA. At the same time, the COLA-eligible order which initiated the COLA maintains priority over any interest that was received during the COLA on the same side as the COLA-eligible order, which ensures that there is no advantage to submitting interest on the same side as the COLA-eligible order. Thus, the Exchange believes that this is consistent with just and equitable principles of trade.

The Exchange believes that its proposal to add to the rule text the price at which remaining interest is executed is consistent with the Act. Specifically, Rule 1080.08(e)(vii) and (viii) will provide that, at the end of the COLA, remaining interest trades at its entered price, and if such prices cross each other, the execution price is based on the price of the smaller sized interest. If the interest is equal in size, the execution price is the midpoint of the two prices, rounded, if necessary, up to the closest minimum trading increment. The COLA-eligible order is executed first and all other interest is addressed, taking into account its price.[25] The Exchange believes that this approach is consistent with promoting just and equitable principles of trade, because responsive interest is addressed in a reasonable way, after the COLA-eligible order is executed, at the best prices possible and executing as much of the interest as possible. The Exchange believes that this approach is reasonable, because, in a situation where a choice has to be made between execution prices, the Exchange has chosen to benefit the smaller sized order, execute at the midpoint and round up, all of which are choices based on what the Exchange deemed a fair approach given the choice of benefitting the larger order, not executing at all, or rounding down. Most importantly, the Exchange seeks to execute as much of the remaining interest as possible. This should facilitate more executions of Complex Orders.

The Exchange further believes that the proposed modifications to Rule 1080.08(e)(viii) are consistent with the Act. That subsection has always governed the processing of orders resting on the CBOOK and entered during a COLA; has always permitted the entry of such orders on the same side of the market as the COLA-eligible order; and has always permitted the entry of Complex Orders and COLA Sweeps at prices both superior and inferior to the COLA-eligible order. The proposed changes to subsection (e)(viii) do not alter the current processing of COLA Sweeps or other Complex Orders.

As stated above,[26] the Exchange believes that it is consistent with the Act to continue to permit the entry of orders on both sides of the COLA-eligible order when the COLA Message reveals the side of the COLA-eligible order. As stated above, it is rational for participants to enter orders on the same side of the market as the COLA-eligible order or at inferior prices to the COLA-eligible order because such orders can participate in the COLA after the COLA-eligible order is fully executed. COLA executions continue to occur at best price(s) available at the end of the COLA with the COLA-eligible order being executed first with interest on the same side of the market as the COLA-eligible order or interest at prices inferior to the COLA-eligible order considered for execution only after the COLA-eligible order has been satisfied. Thus, maintaining the current functionality will facilitate transactions in securities by maximizing opportunities for order execution in the COLA. Allowing such behavior is consistent with just and equitable principles of trade because the behavior is not advantaged in the Phlx XL system; for this reason, the Exchange does not believe that the system processing of such orders is subject to manipulation or gaming. The Exchange will, of course, surveil COLAs diligently to guard against manipulation and gaming.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the proposal does not

[21] Pursuant to Rule 1080.08(e)(viii)(A), at the end of the COLA Timer, the Phlx XL system will determine the price and size of COLA Sweeps and any orders that were received during the COLA Timer that are unrelated to the COLA but nonetheless are eligible to participate.

[22] 15 U.S.C. 78f.

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f(b)(8).

[25] Pursuant to Rule 1080.08(e)(viii)(A), at the end of the COLA Timer, the Phlx XL system will determine the price and size of COLA Sweeps and any orders that were received during the COLA Timer that are unrelated to the COLA but nonetheless are eligible to participate.

[26] *See supra* at text accompanying note 19.

impose an intra-market burden on competition, because it will be available to all Phlx participants who receive Complex Order Messages and such messages are available to those who choose to subscribe, for a fee. Furthermore, the proposal should promote competition for complex orders by drawing more and better responses to the COLA, which, in turn, should make the COLA more robust and competitive. Nor will the proposal impose a burden on competition among the options exchanges, because, in addition to the vigorous competition for order flow among the options exchanges, the proposal adds information that certain other options exchanges broadcast, which should be helpful to market participants.

With respect to the aspect of the proposal that adds reference to COLA Sweeps, the Exchange believes that this change does not impose a burden on competition, because it *includes* same side COLA Sweeps in executions after the COLA; it merely addresses how COLA Sweeps execute against each other. With respect to the aspect of the proposal that addresses the price at which remaining interest is executed, the Exchange believes that the proposal does not impose a burden on competition, because it merely specifies, in connection with executing as much interest as possible, the prices at which such interest trades, regardless of the type of market participant submitting such interest. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct complex order flow to competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) [sic] of the Act [27] and subparagraph (f)(6) of Rule 19b–4 thereunder.[28]

Phlx believes that the proposal to add side and price information does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition because it does not raise any novel regulatory issues, as it is similar to messages sent by other exchanges. The proposal adds certain information to a broadcast message, which benefits market participants. To the extent that the ISE's Price Improvement Mechanism is different than the COLA, the Exchange does not believe that this difference raises any new regulatory issues, because the purpose of adding the price to the message is to attract relevant responses, which is likely also the purpose of ISE showing the price of an order in its Price Improvement Mechanism. Because the purposes are the same, the Exchange does not believe that the fact that ISE's Price Improvement Mechanism is different from the COLA is material to considering whether a message should contain price.

The Exchange further believes that continuing to allow same-side responses, unlike the CBOE, which rejects same-side responses, does not significantly affect the protection of investors or the public interest, and does not impose a significant burden on competition, because same-side Complex Orders on the Exchange are treated, generally, the same as COLA Sweeps, and the same whether submitted in direct response to a COLA message or not.[29] More specifically, as discussed above,[30] there is no advantage to using one over the other, nor is there any advantage to submitting a Complex Order in response to a COLA as opposed to coincidentally. Thus, the Exchange believes that maintaining the current functionality will maximize opportunities for execution of trading interest without creating opportunities for manipulation or gaming. Moreover, the Exchange does not believe that the resulting structure of the Exchange's auction burdens competition because it provides a competitive alternative to CBOE; to the extent that this change benefits the Exchange, CBOE may readily respond by adjusting its own rules.

The correction that permits COLA Sweeps to trade with other COLA Sweeps does not significantly affect the protection of investors and the public interest or impose a significant burden on competition, because it maximizes the interest that trades after a COLA. The change to specify the prices used to execute remaining interest after a COLA also does not significantly affect the protection of investors and the public interest or impose a significant burden on competition, because it lays out a reasonable method for pricing such interest, as explained above.[31]

Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–Phlx–2013–88 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–Phlx–2013–88. 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

[27] 15 U.S.C. 78s(b)(3)(a)(ii) [sic].

[28] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[29] However, COLA Sweeps expire at the end of the COLA, while Complex Orders can go on the CBOOK.

[30] *See supra* at text accompanying notes 13–18.

[31] *See supra* at text accompanying note 19 [sic].

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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–88 and should be submitted on or before September 24, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21299 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70270; File No. SR–Phlx–2013–84]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx Rule 910 and Related Phlx Rules

August 27, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 14, 2013, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III 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 amend Phlx Rule 910 (Qualification as Member Organization) and related Phlx rules. The text of the proposed rule change is below. Proposed additions are in italics and proposed deletions are in brackets.

Rule 900.2. Membership Applications

(a)–(c) No change.

(d) [If the Membership Department does not approve a membership application or permit application, the department will notify the applicant in writing of the specific grounds for denial and the applicant shall have a right to a hearing. Any appeal from a decision of the Membership Department shall be heard by a special committee of the Board of Directors composed of three (3) Directors, of whom at least one (1) shall be a Public Director. The person requesting review may appeal by filing a written notice thereof with the Secretary of the Exchange within ten (10) days after a decision. The person requesting review shall be permitted to submit a written statement to this special committee. The Secretary of the Exchange shall certify the record of the proceeding, if any and the written decision and shall submit these documents to the special committee. The special committee's review of the action shall be based solely on the record, the written decision and any statement submitted by the person requesting the review. The special committee shall prepare and deliver to such person a written decision and reasons therefor. If the special committee affirms the action, the action shall become effective ten (10) days from the date of the special committee's decision. There shall be no appeal to the Board of Directors from any decision of the special committee.

(e)] Absent a showing of good cause, an application filed pursuant to this Rule shall lapse after a 90 calendar day period if an applicant fails to provide the requisite documentation provided for in this Rule or any subsequent written request for information or documents pursuant to this Rule within such time period agreed to by the Membership Department. If such time period elapses, an applicant seeking membership to the Exchange shall be required to file a new application pursuant to this Rule. The applicant will be required to pay an additional application fee at that time. The Exchange will not refund any fees for lapsed applications.

[(f)] *(e)* The provisions of this Rule 900.2 shall not apply to a corporation pursuant to Rule 798.

* * * * *

Rule 910. Qualification as Member Organization

(a)–(e) No change.

(f)*(1)* To obtain and maintain the status of a member organization, an organization shall: (i) Be a broker or dealer duly registered under the Exchange Act; (ii) be duly qualified by a permit holder who is primarily affiliated with such organization for purposes of nominating as provided in the By-Laws; (iii) have submitted to the Membership Department an application for such status in the form approved by the Membership Department and any other information and materials requested by the Membership Department; (iv) have had such application approved by the Membership Department; and (v) meet such other requirements as are set forth in these By-Laws or the Rules of the Exchange.

(2) To obtain and maintain the status of a Market Maker on PSX, a member organization whose market making has not previously been approved by FINRA under the NASD Rule 1000 Series (or such successor FINRA Rules as may be adopted by FINRA), NASDAQ under the NASDAQ Rule 1000 Series, or NASDAQ OMX BX under the BX Rule 1000 Series shall: (i) Have submitted to the Membership Department an application for such status in the form approved by the Membership Department and any other information and material requested by the Membership Department; (ii) have had such application approved by the Membership Department; and (iii) meet such other requirements as are set forth in the By-Laws or Rules of the Exchange. The information to be provided shall include a business plan, an organizational chart, written supervisory procedures reflecting the change, and such other information as the Membership Department may request.

(g)–(j) No change.

* * * * *

Rule 923. [Reserved] *Review of Membership Department Decisions*

If the Membership Department takes an adverse action with respect to a membership application, permit application, or other matter for which the Membership Department has responsibility, the department will notify the applicant in writing of the specific grounds for denial and the applicant shall have a right to a hearing. Any appeal from a decision of the

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Membership Department shall be heard by a special committee of the Board of Directors composed of three (3) Directors, of whom at least one (1) shall be a Public Director. The person requesting review may appeal by filing a written notice thereof with the Secretary of the Exchange within ten (10) days after a decision. The person requesting review shall be permitted to submit a written statement to this special committee. The Secretary of the Exchange shall certify the record of the proceeding, if any, and the written decision and shall submit these documents to the special committee. The special committee's review of the action shall be based solely on the record, the written decision and any statement submitted by the person requesting the review. The special committee shall prepare and deliver to such person a written decision and reasons therefor. If the special committee affirms the action, the action shall become effective ten (10) days from the date of the special committee's decision. There shall be no appeal to the Board of Directors from any decision of the special committee.

* * * * *

Rule 3212. Registration as a Market Maker

(a) Quotations and quotation sizes may be entered into PSX only by a member organization registered as a PSX Market Maker or other entity approved by the Exchange to function in a market-making capacity. *Member organizations seeking to become registered as a PSX Market Maker must comply with the applicable requirements of Rule 910.*

(b)–(c) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently adopted rules to allow market making on PSX.[3] Rule 910(f) provides that member organizations seeking to maintain their status shall submit to the Exchange's Membership Department (the "Department") any information and materials requested by the Department. Pursuant to this authority, the Department has determined that in the event a member organization seeks to become a market maker on PSX, it may request information from the member organization in order to evaluate its qualifications. However, in order to make the requirements of the rule clearer, and to describe circumstances in which submission of additional information will not be deemed necessary, the Exchange is proposing to amend Rule 910.[4]

Specifically, the amended rule will provide that a member organization seeking to become a PSX Market Maker must submit required material to the Exchange's Membership Department unless the member organization's market making has previously been approved by the Financial Industry Regulation Authority ("FINRA") under the NASD Rule 1000 Series (or such successor FINRA rules as FINRA may adopt), The NASDAQ Stock Market ("NASDAQ") under the NASDAQ Rule 1000 Series, or NASDAQ OMX BX ("BX") under the BX Rule 1000 Series. In this respect, the proposed rule is modeled on NASDAQ Rules 1011 and 1017, which provide that a member's market making for the first time on NASDAQ is considered a material change in its business operations, requiring approval by the NASDAQ Membership Department, unless "the member's market making has previously been approved by FINRA under NASD Rule 1017 or NASDAQ OMX BX under NASDAQ OMX BX Equity Rule 1017."[5] Thus, the rule recognizes the work performed by other self-regulatory organizations in vetting the capability of the member to perform market making functions.

In cases where a Phlx member organization has not been previously approved to engage in market making by FINRA, NASDAQ, or BX, the member organization would be required (i) to submit to the Membership Department an application in the form approved by the Membership Department and any other information and material requested by the Membership Department; (ii) to have had such application approved by the Membership Department; and (iii) to meet such other requirements as are set forth in these [sic] By-Laws or the Rules of the Exchange (*e.g.*, compliance with Rule 3213 (Registration as a Market Maker) and Rule 911 (Member and Member Organization Participation)). The information to be provided shall include a business plan, an organizational chart, written supervisory procedures reflecting the change, and such other information as the Membership Department may request. This information is similar to the information required under NASDAQ Rule 1017(b) in similar circumstances.[6] The Exchange believes that such information will enable the Membership Department to review details necessary to assess the capability of the member organization to act in a market making capacity.

Phlx is also proposing to move Rule 900.2(d), which addresses appeals from denials of membership or permit applications by the Membership Department, to new Rule 923. In addition, Phlx proposes broadening the scope of the moved rule to apply to any adverse decision of the Membership Department, so that the rule applies to decisions with respect to market making under Rule 910. Rule 923 provides that if the Membership Department takes an adverse action with respect to a membership application, permit application, or other matter for which the Membership Department has responsibility, the department will notify the applicant in writing of the specific grounds for denial and the applicant shall have a right to a hearing. An appeal would be heard by a special committee of the Board of Directors

[3] Securities Exchange Act Release No. 69452 (April 25, 2013), 78 FR 25512 (May 1, 2013) (SR–Phlx–2013–24).

[4] In addition, the Exchange is adding a cross-reference to Rule 910 to Rule 3212, which governs registration of PSX market makers in specific securities for which they intend to make markets.

[5] The proposed Phlx rule is slightly broader, in that it would recognize a new member's approval as a market maker, or an existing member's approval as a market maker, under the Rule 1000 Series of the referenced self-regulatory organizations. The referenced rules govern both new membership applications and applications for a change in business operations.

[6] In contrast to the NASDAQ Rule, however, the Phlx rule will not specifically require the applicant to provide pro forma financial statements, which Phlx believes are unlikely to provide materially useful information about the applicant. The proposed rule is sufficiently broad, however, to allow the Membership Department to request such information if deemed appropriate in a specific case.

composed of three Directors, of whom at least one shall be a Public Director. The person requesting review may appeal by filing a written notice thereof with the Secretary of the Exchange within ten days after a decision. The person requesting review is permitted to submit a written statement to this special committee. The Secretary of the Exchange shall certify the record of the proceeding, if any, and the written decision and shall submit these documents to the special committee. The special committee's review of the action shall be based solely on the record, the written decision and any statement submitted by the person requesting the review. The special committee shall prepare and deliver to such person a written decision and reasons therefor. If the special committee affirms the action, the action shall become effective ten days from the date of the special committee's decision. The decision of the special committee may not be appealed to the Board of Directors, and would thus constitute final action by the Exchange.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act,[8] in particular, in that the proposal 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 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, the proposed rule change will make it clear that member organizations seeking to make markets on PSX for the first time will be required to submit information necessary to allow the Phlx Membership Department to assess the capability of the member organization to act in that capacity. The rule change will also relieve member organizations seeking to make markets on PSX for the first time from the requirement to submit to pre-review by the Membership Department in instances where they have already undergone such a review under the rules of FINRA, NASDAQ or BX. The rule change also broadens the scope of what may be appealed to a special committee of the Board of Directors to include any adverse action of the Membership Department for which it has responsibility. The Exchange believes that it is appropriate to apply a consistent process to all adverse actions of the Membership Department, including adverse decisions concerning applications to obtain and maintain the status of a Market Maker, as it will lessen the burden on member organizations should they otherwise be required to comply with multiple appellate processes. Moreover, adopting a uniform appellate process will promote consistent reviews of matters concerning membership-related adverse actions. Accordingly, Phlx believes that the rule change will remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest, because it will clarify the scope of regulatory review by the Phlx Membership Department while also relieving member organizations of unnecessary regulatory burdens.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, by clarifying the scope of regulatory review by the Phlx Membership Department of member organizations seeking to become market makers on PSX, the rule change reflects appropriate regulatory reviews with respect to member organizations engaging in a new market activity and provides a uniform process applied to appeals of all adverse actions taken by the Membership Department. To the extent that this review may be seen as a burden on competition because it may limit the extent to which a member organization may make markets, or slow the timing of a member organization entering this business, such burdens are appropriate in light of the importance of assessing a member organization's capability. Moreover, the change to provide that review is not necessary in the case of member organizations approved to make markets by other SROs will help mitigate any burden created by the new rule by eliminating duplicative regulatory reviews. The Exchange believes that the efficiency and consistency that comes from applying a uniform process to any adverse action of the Membership Department lessens the burden on a member organization that appeals such an action as it would otherwise be required to follow differing processes, depending on the nature of the adverse action taken.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) [sic] of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–Phlx–2013–84 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–Phlx–2013–84. This file number should be included on the

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4) [sic] and (5).

[9] 15 U.S.C. 78s(b)(3)(a)(ii) [sic].

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Phlx–2013–84 and should be submitted on or before September 24, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21298 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70263; File No. SR–NSCC–2013–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to the Decommissioning of NSCC's Over-the-Counter (OTC) Equity Comparison Service

August 27, 2013.

On July 2, 2013, the National Securities Clearing Corporation filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR–NSCC–2013–09 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on July 18, 2013.[3] The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

I. Description

NSCC is amending its rules to decommission the over-the-counter ("OTC") Equity Comparison Service and delete two obsolete provisions in Procedure II, "Trade Comparison and Recording Service."

OTC Equity Comparison Service

Currently, NSCC provides a framework to compare and record transactions in eligible equity and debt securities executed on national stock exchanges and in the OTC market, as provided in Rule 7 and Procedure II.[4] Rule 7 and Procedure II both note that NSCC will stop providing comparison services once each exchange and/or marketplace assumes responsibility for trade comparison.[5] According to NSCC, all marketplaces interfacing with NSCC have assumed responsibility for equity comparison and, as a result, NSCC's OTC Equity Comparison Service receives a nominal amount of over-the-counter bilateral equity transaction submissions.[6] Therefore, NSCC is decommissioning its OTC Equity Comparison Service and amend several rules to reflect this, as described below.

This change will not impact comparison services with respect to debt transactions, which are compared through the Real Time Trade Matching (or "RTTM") system, or transactions submitted to the Obligation Warehouse.[7]

Once the OTC Equity Comparison service is decommissioned, comparison submissions for equity transactions, other than those submitted to the Obligation Warehouse, will not be accepted by NSCC and related output will not be produced.[8] As a result, upon the effective date of this proposal, all equity transactions submitted for processing to NSCC, other than those submitted through the Obligation Warehouse, must be compared prior to submission (i.e., at the marketplace of execution or through FINRA/NASDAQ's Automated Comparison Transaction facility ("ACT") and submitted to NSCC on a locked-in basis for trade recording).[9]

Changes to Rule 7, Procedure II, Rule 5, Rule 1, Addendum A, and Addendum K

To facilitate this proposal, NSCC is amending several rules. NSCC is amending Rule 7, "Comparison and Trade Recording Operation," and Procedure II, "Trade Comparison and Recording Service" to reflect changes consistent with the above. These changes also require certain technical changes including re-numbering footnotes and updating cross-references.

NSCC is amending Rule 5, "General Provisions" to reflect changes consistent with the above and to clarify that output issued by NSCC with respect to transactions either compared by it, or recorded locked-in transactions, defined as "Compared Contracts," evidence valid, binding and enforceable compared transactions for purposes of the Rules.

NSCC is amending Rule 1, "Definitions" to add the definition of "Compared Contracts" as described in Rule 5.

NSCC is amending its fee schedule in Addendum A to delete references to charges associated with OTC equity comparison.

NSCC is amending Addendum K to update a cross-reference to reflect these proposed changes.

Obsolete Provisions in Procedure II

NSCC also is deleting two obsolete provisions in Procedure II. First, NSCC is deleting a provision relating to the submission of municipal securities transactions by members on behalf of non-members since the function is no longer in use.[10] Second, NSCC is deleting a provision relating to potential announcement via Important Notice of the availability of the comparison service for when-issued corporate securities. According to NSCC, NSCC has not scheduled to implement a comparison service for corporate when-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69980 (July 12, 2013), 78 FR 42989 (July 18, 2013) (SR–NSCC–2013–09) ("Notice").

[4] *See* NSCC Rule 7 and Procedure II; See Notice, *supra* note 3 at 42989–90.

[5] See NSCC Rule 7 note 1 and Procedure II note 1.

[6] See Notice, *supra* note 3 at 42990. According to NSCC, during May 2013, NSCC compared approximately 90 sides (an approximate average of 45 trades) for equity transactions through its OTC Comparison service. As of June 24, 2013, NSCC compared a total of 74 sides (37 trades) for the entire month of June 2013 to date. *See id.* at note 3.

[7] NSCC provides an Obligation Warehouse service under which certain transactions may be submitted for comparison that are not otherwise submitted for processing to NSCC through its other services. *See* NSCC Rule 51 and Procedure IIA; Notice, *supra* note 3 at 42990.

[8] See Notice, *supra* note 3 at 42990.

[9] See id.

[10] *See id.*

issued securities.[11] In the event that NSCC proposes to implement this, NSCC states that it will submit a rule filing to the Commission.[12]

According to NSCC, the effective date of the proposed rule changes will be announced via an NSCC Important Notice at least 30 days in advance of its implementation.[13]

II. Discussion

Section 19(b)(2)(C) of the Act[14] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[15] requires the rules of a clearing agency to be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protect investors and the public interest. The Commission finds that NSCC's proposed rule changes are consistent with these requirements, primarily because, this change promotes transaction comparison at the point of trade, which increases operational efficiencies. Further, by deleting two obsolete provisions in Procedure II, NSCC is ensuring its rules are accurate and reflect its operations.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[16] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NSCC–2013–09) be, and hereby is, approved.[17]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21294 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70272; File No. SR–FINRA–2013–035]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Adopt FINRA Rules 4314 (Securities Loans and Borrowings), 4330 (Customer Protection—Permissible Use of Customers' Securities) and 4340 (Callable Securities) in the Consolidated FINRA Rulebook

August 27, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("SEA" or "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 14, 2013, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. 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

FINRA is proposing to adopt financial and operational rules relating to securities loans and borrowings, permissible use of customers' securities, and callable securities as FINRA Rules in the consolidated FINRA rulebook. Specifically, the proposed rule change would adopt with amendments the following as FINRA Rules: (1) Incorporated NYSE Rule 296 (Liquidation of Securities Loans and Borrowings) and Supplementary Material paragraphs .10 and .20 regarding requirements applicable to a member that is a party to an agreement for the loan or borrowing of securities as FINRA Rule 4314 (Securities Loans and Borrowings); (2) Incorporated NYSE Rule 402 (Customer Protection—Reserves and Custody of Securities) regarding requirements applicable to a member borrowing or lending a customer's securities that are eligible to be pledged or loaned as FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities); and (3) Incorporated NYSE Rule 402.30 (Securities Callable in Part) regarding requirements applicable to a member that has in its possession or under its control any callable securities as FINRA Rule 4340 (Callable Securities).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook"),[3] FINRA is proposing to amend and adopt the following as FINRA Rules in the Consolidated FINRA Rulebook: (1) NYSE Rule 296 (Liquidation of Securities Loans and Borrowings)[4] and Supplementary Material paragraphs .10 and .20 as FINRA Rule 4314 (Securities Loans and Borrowings); (2) NYSE Rule 402 (Customer Protection—Reserves and Custody of Securities) as FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities); and (3) NYSE Rule 402.30 (Securities Callable

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[11] *See id.*

[12] *See id.*

[13] *See id.*

[14] 15 U.S.C. 78s(b)(2)(C).

[15] 15 U.S.C. 78q–1(b)(3)(F).

[16] 15 U.S.C. 78q–1.

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice* March 12, 2008 (Rulebook Consolidation Process).

[4] For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

in Part) as FINRA Rule 4340 (Callable Securities).

a. *Proposed FINRA Rule 4314 (Securities Loans and Borrowings)*

i. *Background*

NYSE Rule 296 (Liquidation of Securities Loans and Borrowings) sets forth the obligations of a member that is party to an agreement with another member for the loan and borrowing of securities. Specifically, the rule provides that a member that is party to an agreement with another member for the loan and borrowing of securities has the right to liquidate such transaction whenever the other party to the transaction: (1) Applies for or consents to a receiver, custodian, trustee or liquidator of itself or its property; (2) admits in writing its inability, or becomes generally unable, to pay its debts as such debts become due; (3) makes a general assignment for the benefit of its creditors; or (4) files, or has filed against it, a petition for a Chapter 11 bankruptcy filing or a protective decree under Section 5 of the Securities Investor Protection Act of 1970 ("SIPA") ("liquidation conditions").

The rule further provides that no member may lend or borrow any security to or from any non-member of the NYSE, except pursuant to a written agreement, which may consist of the exchange of contract confirmations that confers upon the member the contractual right to liquidate such transaction because of a liquidation condition of the kind specified above.

NYSE Rule 296.10 defines the term "agreement for the loan and borrowing of securities," for purposes of NYSE Rule 296. NYSE Rule 296.20 provides that each member that is subject to SEA Rule 15c3–3 (Customer Protection—Reserves and Custody of Securities) and that borrows securities from a customer (as the term is defined in SEA Rule 15c3–3) must comply with SEA Rule 15c3–3's provisions requiring a written agreement between the borrowing member and the lending customer.

NYSE Rule 296 has been the basis for provisions incorporated in the industry standard Master Securities Lending Agreement ("MSLA"). The rule provides protection to members that may enter into a securities lending transaction without a duly signed MSLA with a counterparty. Should one of the counterparties become insolvent, the rule allows the other counterparty to liquidate immediately against collateral received. For these reasons, FINRA is proposing to adopt NYSE Rule 296 as FINRA Rule 4314 (Securities Loans and Borrowings) into the Consolidated FINRA Rulebook with the changes described below.

ii. *Proposed FINRA Rule 4314*

In 2006, the industry began to adopt voluntary books and records and disclosure practices relating to securities lending, as a result of an industry-wide initiative to address the risks associated with agency lending (the Agency Lending Disclosure Initiative ("ALD Initiative")).[5] Consistent with the industry-wide initiative, FINRA is proposing a new requirement to make clear whether parties are acting as principals or agents when entering into an agreement to loan or borrow securities. The proposed rule would require a member that acts as agent in a loan or borrow transaction to disclose its capacity and, in cases where the member lends securities to or borrows securities from a counterparty that is acting in an agency capacity, require that the member maintain books and records to reflect the details of the transaction with the agent and each principal(s) on whose behalf the agent is acting and the details of each transaction therewith.

Specifically, proposed new FINRA Rule 4314(a) would require a member that lends or borrows securities in the capacity of agent to disclose such capacity to the other party (or parties) to the transaction. The provision would further require a member, prior to lending securities to or borrowing securities from a person that is not a member of FINRA, to determine whether the other party is acting as principal or agent in the transaction. When the other party (who may or may not be a member) is acting as agent in the transaction, the member would be required to maintain books and records that reflect: (1) The details of the transaction with the agent; and (2) each principal(s) on whose behalf the agent is acting and the details of each transaction therewith. FINRA believes this requirement will help address concerns regarding the level of transparency and information disclosure in agency lending transactions. The new requirement would improve transparency by disclosing the name of the underlying principal(s) to the member and thereby give the member the ability to assess its creditworthiness, which is needed given the member's ongoing exposure in the lending transaction. In addition, the proposal establishes uniform books and records requirements.

Proposed FINRA Rule 4314(b), based on NYSE Rule 296(a), would continue to provide each member that is a party to an agreement with another member for the loan and borrowing of securities with the right to liquidate such transaction whenever the other party to such transaction becomes subject to one of the liquidation conditions specified in the rule. FINRA is proposing to add the words "to liquidate such transaction" to the last sentence of proposed paragraph (b)(1) to clarify the meaning of the provision. FINRA believes a member's right to liquidate the transaction under the specified circumstances would assist the member in managing the risk associated with such transactions and maintaining compliance with its net capital requirements. In addition, the liquidation conditions have largely been incorporated into the industry standard MSLA developed as part of the ALD Initiative.

In addition, NYSE Rule 296(b) requires a member to have a written agreement with any non-member of the NYSE to whom it lends, or from whom it borrows, securities. FINRA is proposing to adopt this requirement so that all FINRA members that engage in such transactions with non-members of FINRA must have the written agreement as required in NYSE Rule 296(b). Specifically, proposed FINRA Rule 4314(c) would require that no member shall lend or borrow any security to or from any person that is not a member of FINRA, including any customer, except pursuant to a written agreement, which may consist of the exchange of contract confirmations, that confers upon such member the contractual right to liquidate such transaction because of a liquidation condition of the kind specified in proposed FINRA Rule 4314(b). FINRA believes that applying this requirement to all FINRA members is appropriate for the adoption of the rule into the Consolidated FINRA Rulebook because it protects the member's interests in the event of a liquidation condition specified in proposed FINRA Rule 4314(b) and supports the member's compliance with net capital requirements.

FINRA is proposing to transfer NYSE Rule 296.10, which defines the term "agreement for the loan and borrowing of securities," as Supplementary Material .01 to proposed FINRA Rule 4314, without substantive change. In addition, FINRA is proposing to add new Supplementary Material .02 through .05 to the proposed FINRA rule. FINRA believes the new Supplementary

[5] The Commission notes that it recently adopted an amendment to Rule 15c3–1(c)(2)(iv)(B) that would deem broker-dealers providing securities borrowing and lending settlement services as principals subject to certain capital deductions, unless certain steps are taken to disclaim principal liability. *See* Securities Exchange Act Release No. 70072 (July 30, 2013), 78 FR 51824, 51846 (August 21, 2013).

Material provides clarity and guidance by describing how a member firm can meet its disclosure obligations under the proposed rule, and clarifying the proposed rule's books and records requirements. Specifically, proposed Supplementary Material .02 clarifies the methods by which a member may satisfy its disclosure obligation in new paragraph (a) by, among other things, providing specific disclosure of its capacity as agent in the written agreement between the parties or in the individual confirmations of each security exchanged between the parties for each loan and borrow transaction. Proposed Supplementary Material .03 clarifies the books and records requirements imposed by new paragraph (a) and requires members to create and maintain records for each security loan or borrow transaction in accordance with SEA Rules 17a–3 and 17a–4. It also provides that when a member enters into a security loan or borrow transaction with a party that is acting as agent on behalf of another principal(s), the member must maintain a record of details of the transaction with the agent, including identifying the specific security and quantity loaned or borrowed, the contract value and the type and description of the security collateral provided to the agent, and the identity of each underlying principal and the amount and description of the collateral allocated to each such principal. FINRA believes proposed Supplementary Material .03 will establish consistent industry standards regarding the types of information firms must maintain for each security loan or borrow transaction with an agent and the underlying principal(s) on whose behalf the agent is acting. Such detailed records will evidence that firms, when entering into security loan or borrow transactions, have knowledge of the parties involved to enable them to assess, among other things, the creditworthiness of the underlying principal(s).

Proposed Supplementary Material .04 reminds members of their obligations under proposed FINRA Rule 4330(b) (discussed further below) to provide written disclosures to customers regarding the risks and financial impact associated with the customer's loan(s) of securities, and requires that members disclose in such written notice their right to liquidate the borrow transactions with customers under the conditions specified in paragraph (b) of proposed FINRA Rule 4314. Proposed Supplementary Material .05 would require, for purposes of paragraph (c) of proposed FINRA Rule 4314, each member that is subject to the provisions of SEA Rule 15c3–3 that borrows fully paid or excess margin securities from a customer to comply with the provisions of SEA Rule 15c3–3 relating to the requirements for a written agreement between the borrowing member and the lending customer.

iii. *Eliminated Rules and Requirements*

FINRA is proposing to eliminate NYSE Rule Interpretation 296(b)/01, which addresses transactions with non-member organizations and the written agreements required in regard to repurchase and reverse repurchase transactions not subject to SEA Rule 15c3–3, as the interpretation is beyond the scope of proposed FINRA Rule 4314.

b. *Proposed FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities)*

i. *Background*

NYSE Rule 402 (Customer Protection—Reserves and Custody of Securities), NASD Rule 2330(b)–(d) (Customers' Securities or Funds) and NASD IM–2330 (Segregation of Customers' Securities) set forth the requirements applicable to a member's use of customers' securities. Specifically, NYSE Rule 402 and NASD Rule 2330 prohibit a member from lending, either to itself or others, securities that are held on margin for a customer and that are eligible to be pledged or loaned, unless the firm first obtains a written authorization from the customer permitting the lending of the customer's securities. NYSE Rule Interpretation 402(b)/01 (Agreements for Use of Customers' Securities/ Application) permits a member to use a single customer signed margin agreement/loan consent in lieu of obtaining separate written documents. Both the NYSE and NASD rules contain similar provisions requiring members to comply with SEA Rule 15c3–3 in obtaining custody and control of securities and maintaining appropriate cash reserves.

FINRA is proposing to adopt NYSE Rule 402 as FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities), subject to certain significant changes, and eliminate NASD Rule 2330 and NASD IM–2330 as duplicative or otherwise unnecessary.[6] The proposed rule adds new disclosure requirements and establishes the need for members to conduct appropriateness determinations before engaging in the borrowing and lending of customers' fully paid and excess margin securities.

ii. *Proposed FINRA Rule 4330(a) (Authorization to Lend Customers' Margin Securities)*

Proposed FINRA Rule 4330(a) would require a member to obtain a customer's written authorization prior to lending securities that are held on margin for a customer and that are eligible to be pledged or loaned. FINRA believes continuing the requirement to have written customer consent protects customers. FINRA is also proposing to delete the phrase "either to itself as a broker-dealer or to others" currently contained in NYSE Rule 402(b) that in relevant part provides that "[n]o member organization shall lend, either to itself as a broker-dealer or to others, securities which are held on margin for a customer and which are eligible to be pledged or loaned, unless . . . ." because FINRA does not believe the language adds to the meaning of the sentence and may be confusing. Proposed FINRA Rule 4330(a) instead would clearly provide that "[n]o member shall lend securities that are held on margin for a customer and that are eligible to be pledged or loaned, unless such member shall first have obtained a written authorization from such customer permitting the lending of such securities."

Proposed Supplementary Material .02 (Authorization to Lend Customers' Margin Securities) retains and codifies NYSE Rule Interpretation 402(b)/01, thereby continuing to permit a member to satisfy the written authorization requirement by using a single customer-signed margin agreement/loan consent, in lieu of obtaining a separate written authorization, provided that it contains a legend in bold type face placed directly above the signature line that states substantially the following: "*By Signing this Agreement I Acknowledge that My Securities May be Loaned to You or Loaned Out to Others.*"

Consistent with NYSE Rule 402(a) and NASD Rule 2330(b), proposed Supplementary Material .01 (Definitions) would provide that the definitions contained in SEA Rule 15c3–3 would apply to proposed FINRA Rule 4330. However, the proposed rule does not include the requirement contained in both the NYSE and NASD rules for members to maintain cash reserves as prescribed by SEA Rule 15c3–3 because members continue to be subject to SEA Rule 15c3–3.

iii. *Proposed FINRA Rule 4330(b) (Requirements for Borrowing of Customers' Fully Paid or Excess Margin Securities)*

[6] NASD Rule 2330(a), (e) and (f) are now marked "Reserved." The substantive provisions of these paragraphs were deleted in prior rule filings.

In addition, FINRA is proposing new requirements to address the borrowing and lending of customers' fully paid or excess margin securities. Specifically, proposed FINRA Rule 4330(b)(1) would require a member that borrows fully paid or excess margin securities carried for the account of any customer to: (A) Comply with the requirements of SEA Rule 15c3–3; (B) comply with the requirements of Section 15(e) (Notices to Customers Regarding Securities Lending) of the Exchange Act to provide notices to customers regarding securities lending; and (C) notify FINRA, in such manner and format as FINRA may require, at least 30 days prior to first engaging in such securities borrows.

Proposed Supplementary Material .03 (Notification to FINRA) would provide that upon FINRA's receipt of such written notification, FINRA may request such additional information as it may deem necessary to evaluate compliance with SEA Rule 15c3–3, Section 15(e) of the Exchange Act and other applicable FINRA rules or federal securities laws or rules. Examples of additional information would include, but would not be limited to:

(a) The written agreement authorizing such borrowing of securities, which shall reflect the material terms of the arrangement;

(b) The types of customers that are parties to such securities borrows;

(c) The types of accounts used to effect the securities borrows (i.e., whether the subject securities are maintained in customers' cash or margin or other accounts);

(d) The types of collateral provided to customers in connection with such securities borrows, the frequency of marking to market of the collateral and the custody arrangements for such collateral;

(e) The operational and recordkeeping processes related to such securities borrows;

(f) The rebates paid/received in connection with such securities borrows and any other compensation arrangements related thereto;

(g) The procedures for handling customers' requests to sell the securities subject to such borrows; and

(h) Disclosures made to customers.

Proposed FINRA Rule 4330(b)(2) also imposes two new requirements that a member must satisfy prior to first entering into securities borrows with a customer. FINRA believes that these proposed new requirements will strengthen customer protection and increase investor confidence. First, proposed FINRA Rule 4330(b)(2)(A) would require that a member have reasonable grounds for believing that the customer's loan(s) of securities are appropriate for the customer. In making this determination, the member shall exercise reasonable diligence to ascertain the essential facts relative to the customer, including, but not limited to, the customer's financial situation and needs, tax status, investment objectives, investment time horizon, liquidity needs, risk tolerance and any other information the customer may disclose to the member or associated person in connection with entering such securities loans. Accordingly, where a member has a securities borrow program, the member would be required to determine the appropriateness of such activity for the customer prior to the customer entering into the first securities borrow. In addition, proposed Supplementary Material .04 (Appropriateness of Customer's Loan(s) of Securities), clarifies that the member borrowing a customer's fully paid or excess margin securities is responsible for making the determination regarding the appropriateness of such borrow from a customer. The proposal would provide, however, that in making the determination, when the member has entered into a carrying agreement with an introducing member pursuant to FINRA Rule 4311, the member may rely on the representations of the introducing member that has a customer relationship with the lender.

Second, proposed FINRA Rule 4330(b)(2)(B) would require a member, prior to first entering into securities borrows with a customer, to provide the customer, in writing (which may be electronic), with a clear and prominent notice stating that the provisions of SIPA may not protect the customer with respect to the customer's securities loan transaction and that the collateral delivered to the customer may constitute the only source of satisfaction of the member's obligation in the event the member fails to return the securities.

FINRA believes that providing customers with clear and prominent disclosure of potential risks associated with customers' loans of securities will allow customers to make more informed investment decisions. In addition, proposed FINRA Rule 4330(b)(2)(B) would require a member to provide the customer with disclosures regarding the customer's rights with respect to the loaned securities, and the risks and financial impact associated with the customer's loan(s) of securities. These disclosures include, but are not limited to: (i) Loss of voting rights; (ii) the customer's right to sell the loaned securities and any limitations on the customer's ability to do so, if applicable; (iii) the factors that determine the amount of compensation received by the member and its associated persons in connection with the use of the securities borrowed from the customer; (iv) the factors that determine the amount of compensation (e.g., interest rate) to be paid to the customer and whether or not such compensation can be changed by the member under the terms of the borrow agreement; (v) the risks associated with each type of collateral provided to the customer; (vi) that the securities may be "hard-to-borrow" because of short-selling or may be used to satisfy delivery requirements resulting from short sales; (vii) potential tax implications, including payments deemed cash-in-lieu of dividend paid on securities while on loan; and (viii) the member's right to liquidate the transaction because of a condition of the kind specified in FINRA Rule 4314(b) (Securities Loans and Borrowings-Right to Liquidate Transaction) (discussed above).

Proposed FINRA Rule 4330(b)(3) would require that a member create and maintain books and records evidencing compliance with proposed FINRA Rule 4330(b)(2). Such records must be maintained in accordance with the requirements of SEA Rule 17a–4(a).

Proposed Supplementary Material .05 (Notification to FINRA of Pre-existing Fully Paid or Excess Margin Securities Borrows and Disclosures to Customers) would require members that have any existing fully paid or excess margin securities borrows with customers as of the effective date of proposed Rule 4330 to notify FINRA in writing, in such manner and format as FINRA may require, of such borrows within 30 days from the effective date of the rule. Notifications may be provided to a member's FINRA Regulatory Coordinator in writing, either in hard copy or electronically. FINRA will specify the manner and format of such notification in a *Regulatory Notice* announcing the effectiveness of the rule. In addition, such members would be required to provide such customers with the disclosures required by proposed FINRA Rule 4330(b)(2)(B) within 90 days from the effective date of the rule. FINRA believes that the requirement to provide notice to FINRA of existing programs is necessary for it to have a more complete picture of members' activities in this area when the rule becomes effective, and that the proposed timeframes for notice to FINRA and providing disclosures to existing customers are reasonable.

iv. *Eliminated Rules and Requirements*

Proposed FINRA Rule 4330 would not retain the provisions in NYSE Rule 402

that are duplicative of the requirements in SEA Rule 15c3–3 or the outdated provisions regarding the physical segregation of securities. In addition, the proposed rule change would eliminate NASD Rule 2330 and NASD IM–2330, which also contain duplicative provisions relating to SEA Rule 15c3–3 and outdated provisions relating to the physical segregation of securities.

c. *Proposed FINRA Rule 4340 (Callable Securities)*

i. *Background*

NYSE Rule 402.30 (Securities Callable in Part) requires a member that has in its possession or control securities that are callable in part to identify each such security so that its records clearly show for whose account it is held. The following securities are exempt from this requirement:

(1) Certain bonds that have not paid interest for at least two interest periods;

(2) Euro-dollar bonds deposited in a central clearing facility for such bonds, provided that customers are notified of the deposit into the central clearing facility and also that the member has the right to withdraw uncalled bonds from the facility at any time; and

(3) bonds or preferred stocks, provided that the member has satisfied certain requirements, including adopting an impartial lottery system in which the probability of a customer's bonds or preferred stocks being selected as called is proportional to the holdings of all customers of such securities held in bulk by or for the member.

NYSE Rule 402.30 also requires that a member provide written disclosure to all customers of the systems and the manner in which securities are held and their rights to withdraw uncalled securities, as described above, prior to: (1) The member depositing the securities in bulk; or (2) the customer purchasing such securities, except in the case of a new account, provided that such notice was sent to the customer prior to the settlement date. The rule further requires that in the event of a favorable call of the securities, the member shall not allocate any securities to any account in which it or its general, limited, or special partners, officers, directors, approved persons or employees have an interest until all other customers' positions in the securities have been satisfied. There is no comparable NASD rule.

FINRA is proposing to adopt FINRA Rule 4340 (Callable Securities), based in part on NYSE Rule 402.30. The proposed rule changes are detailed further below.

ii. *Proposed FINRA Rule 4340(a): Allocation Procedures and Customer Notice*

Proposed FINRA Rule 4340(a) would retain in substance the provision in NYSE Rule 402.30 requiring each member that has in its possession or under its control bonds or preferred stocks that are callable in part, whether specifically set aside or otherwise, to identify such securities and establish an impartial lottery system by which it will allocate among its customers the securities to be redeemed or selected as called in the event of a partial redemption or call. However, proposed FINRA Rule 4340(a) would apply this provision to any security that by its terms may be called or redeemed prior to maturity. FINRA believes firms should establish allocation procedures for all securities that may be partially redeemed, not just securities designated as callable securities. The proposed rule change also would eliminate the specific requirements in NYSE Rule 402.30 regarding the establishment of an impartial lottery system in which the probability of a customer's securities being selected as called is proportional to the holdings of all customers of such securities held in bulk by the member. Instead, proposed FINRA Rule 4340(a)(1) would adopt a more flexible approach that would allow a member to establish and make available on the member's Web site procedures by which it will allocate among its customers, on a fair and impartial basis, the securities to be redeemed or selected as called in the event of a partial redemption or call. Proposed Supplementary Material .02 (Allocations of Partial Redemptions or Calls) would clarify that such procedures may include the use of an impartial lottery system, acting on a pro-rata basis, or such other means as will achieve a fair and impartial allocation of the partially redeemed or called securities.

Proposed FINRA Rule 4340(a)(2) would require the member to provide written notice (which may be electronic) to new customers at the opening of an account, and to all customers at least once every calendar year, of the manner in which they may access the allocation procedures on the member's Web site and that, upon a customer's request, the member will provide hard copies of the allocation procedures to the customer. FINRA believes the proposed periodic notice to customers of the firm's allocation procedures will allow customers to be better informed regarding their rights in the event of a partial redemption or call of securities in their accounts.

iii. *Proposed FINRA Rule 4340(b) and (c): Favorable and Unfavorable Redemptions*

Proposed FINRA Rule 4340(b) would retain in substance the restriction in NYSE Rule 402.30 prohibiting a member from allocating securities to any of its accounts or those of its "employees, partners, officers, directors, and approved persons" in a redemption offered on terms favorable to the called parties until all other customers' positions have been satisfied. However, proposed FINRA Rule 4340(b) would apply the restriction to a member and its "associated persons," rather than to a member's "employees, partners, officers, directors, and approved persons." Accordingly, the proposed rule would provide that, where redemption of callable securities is made on terms favorable to the called parties, a member shall not allocate the securities to any account in which it or its associated persons have an interest until all other customers' positions in such securities have been satisfied.

Proposed Supplementary Material .01 (Definition of Associated Person; Clerical and Ministerial Functions) would clarify that the term "associated person" as used in the proposed rule would have the meaning provided in Section 3(a)(18) of the Act, which expressly excludes, for certain purposes, any persons associated with the member whose functions are solely clerical or ministerial (referred to as "clerical and ministerial associated persons").[7] The proposed supplementary material also would make clear that, in the event of a redemption made on terms favorable to the called parties, a member may include the accounts of clerical and ministerial associated persons in the pool of securities eligible to be called. FINRA believes the proposed change strikes the proper balance by prohibiting firms from favoring the member and its associated persons in any allocation. However, FINRA believes permitting firms to include clerical and ministerial associated persons of the firm in the pool of securities eligible to be called for a redemption favorable to the called parties is reasonable because such allocation does not present the same potential for conflicts of interest as positions held by the firm and its non-clerical and non-ministerial associated persons, and does not unduly burden associated persons engaged in clerical and ministerial functions.

Similarly, where the redemption of callable securities is made on terms unfavorable to the called parties, proposed FINRA Rule 4340(c) and proposed Supplementary Material .03 would make clear that a member cannot exclude its positions or those of its

[7] 15 U.S.C. 78c(a)(18).

associated persons, including the accounts of clerical and ministerial associated persons, from the pool of securities eligible to be called. FINRA believes that requiring a firm to include the positions of the firm and all its associated persons (including those engaged in clerical and ministerial functions) when a redemption is on terms unfavorable to the called parties is reasonable because the provision ensures that all parties are on parity. In addition, proposed Supplementary Material .03 (Accounts of an Introducing Member and its Associated Persons) would codify that where an introducing member is a party to a carrying agreement with another member that is conducting an allocation pursuant to proposed FINRA Rule 4340(a), any accounts in which the introducing member or its associated persons have an interest shall be subject to the provisions regarding participation in favorable and unfavorable calls or redemptions. In addition, the introducing member must identify such accounts to the member conducting the allocation.

iv. *Eliminated Rules and Requirements*

Finally, the proposed rule change would eliminate as unnecessary NYSE Rule 402.30 in its entirety, including eliminating the rule's provision permitting customers to withdraw uncalled fully paid securities at any time prior to a partial call, and also to withdraw excess margin securities, provided that the customers' accounts are not subject to restrictions under Regulation T, or such withdrawals will not cause an under-margined condition.

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval. The effective date will be no later than 180 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will clarify and streamline the financial and operational rules relating to securities loans and borrowings, permissible use of customers' securities and callable securities for adoption as FINRA Rules in the new Consolidated FINRA Rulebook. FINRA notes that the proposed rule change transfers provisions from NASD Rule 2330 and NYSE Rules 296, 402 and 402.30 unchanged into the Consolidated FINRA Rulebook and, as such, those transferred provisions do not impose any new requirements for the industry and member firms engaging in securities loans and borrows that are already subject to the requirements of the current rules. FINRA believes the proposed changes to the current rules address concerns regarding transparency and disclosure under various borrowing and lending arrangements, both among members and with customers. Specifically, FINRA believes the new disclosure and recordkeeping requirements in proposed FINRA Rule 4314 adopt industry practices consistent with industry-wide initiatives that were developed in 2006, through the ALD Initiative. FINRA further believes that the new requirements in proposed FINRA Rule 4330 that a member, prior to first entering into a securities borrow with a customer, have reasonable grounds to believe the customer's loans of securities are appropriate, and send certain specified disclosures to the customer regarding the possible risks associated with securities loan transactions, are reasonable investor protections given the increasing number of retail customers involved in these types of transactions. In general, FINRA believes that the proposed rule change will provide consistency with respect to disclosures and recordkeeping in the marketplace to members, customers and other parties under various borrowing and lending arrangements. Similarly, FINRA believes that proposed FINRA Rule 4340, which adds new disclosure requirements to make the process of partial redemption of callable securities more transparent to customers, provides enhanced investor protection to the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that the proposed rule change is necessary because clarifying and streamlining the financial and operational rules relating to securities loans and borrowings, permissible use of customers' securities and callable securities for adoption as FINRA Rules in the new Consolidated FINRA Rulebook will provide consistency with respect to disclosures to customers and other parties and to the recordkeeping requirements of members, under various borrowing and lending arrangements. Specifically, FINRA believes the new disclosure and recordkeeping requirements proposed in FINRA Rule 4314 adopt industry practices consistent with industry-wide initiatives that were developed in 2006, through the ALD Initiative. FINRA further believes that the new requirements in proposed FINRA Rule 4330 that a member, prior to first entering into a securities borrow with a customer, have reasonable grounds to believe the customer's loans of securities are appropriate, and send certain specified disclosures to the customer regarding the possible risks associated with securities loan transactions, are reasonable investor protections given the increasing number of retail customers involved in these types of transactions. Similarly, FINRA believes proposed FINRA Rule 4340, which adds new disclosure requirements to make the process of partial redemption of callable securities more transparent to customers, provides enhanced investor protection to the market. FINRA notes that the proposed rule change transfers certain provisions from NASD Rule 2330 and NYSE Rules 296, 402 and 402.30 unchanged into the Consolidated FINRA Rulebook and, as such, those transferred provisions do not impose any new requirements for the industry and member firms engaging in securities loans and borrows that are already subject to the requirements of the current rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In January 2010, FINRA published *Regulatory Notice* 10–03 soliciting comment on proposed FINRA Rules 4314, 4330 and 4340. FINRA received four comment letters in response to the *Notice*,[9] which are discussed below. A copy of the *Notice* is attached as Exhibit 2a. A list of the comment letters

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] *See* Letter from Peter J. Chepucavage, Executive Director, CFAW General Counsel Plexus Consulting LLC, received January 20, 2010 ("Plexus"); letter from Erica M. Vaters, Vice President—Fidelity Institutional Compliance, Fidelity Brokerage Services LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated March 5, 2010 ("Fidelity"); letter from Daniel C. Rome, Executive Consultant, Accounting and Compliance International, to Marcia E. Asquith, Corporate Secretary, FINRA, dated March 8, 2010 ("ACI"); and letter from Ira D. Hammerman, Senior Managing Director and General Counsel, Securities Industry and Financial Markets Association, to Marcia E. Asquith, Corporate Secretary, FINRA, dated March 8, 2010 ("SIFMA").

received in response to the *Notice* is attached as Exhibit 2b. Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2c.

One commenter had a general comment on the proposed rules.[10] The commenter strongly supported FINRA's efforts to streamline and add clarity to the new consolidated rulebook. Specifically, the commenter noted that "[t]he proposed consolidation of the rules governing securities loans and borrowing seems to be an example of a simplified rule that eliminates duplicative and/or outdated provisions. Furthermore, the elimination of specific allocation requirements will allow members to establish procedures more tailored to their unique operation."[11]

1. Proposed FINRA Rule 4314 (Securities Loans and Borrowings)

As discussed above, proposed FINRA Rule 4314(a) requires a member that enters into a transaction to lend or borrow securities as agent to disclose its capacity to the other party (or parties) to the transaction. In addition, the paragraph would require a member, prior to lending securities to or borrowing securities from a person that is not a member of FINRA, to determine whether the other party is acting as principal or agent in the transaction.

Only one of the four commenters commented on this proposed rule.[12] The commenter "supports FINRA's goals of enhancing the current safeguards within the securities lending market to further address investor protection concerns, and promote the fundamental goal of lenders—incremental income with limited risk." However, the commenter would like FINRA to explicitly recognize in the proposed rule the ALD Initiative and that transfer of data between the agent lender and broker-dealer under the ALD regime is sufficient to meet the books and records requirements. In addition, the commenter strongly recommends that FINRA work with the SEC to adopt the final version of the SEC's ALD no-action letter prior to or simultaneous with the adoption of proposed Rule 4314. The commenter further notes that "[d]ue to the procedural nature of the no-action letter, firms believe it could prove unwieldy to incorporate all of the detailed requirements of the no-action relief into the proposed rule." The commenter suggests that firms would rather FINRA adopt an "interpretation to the rule (set forth in the Supplementary Material) that references the fact that firms should structure their operations in a manner consistent with the cited SEC no-action letter."[13]

FINRA recognizes the work of the ALD Initiative and has been actively involved for several years with SIFMA, industry participants, the SEC and other regulators regarding the procedures that broker-dealers borrowing securities through intermediaries should follow in order to have adequate information regarding the principals on whose behalf the securities are being loaned. Based on FINRA's involvement with the ALD no-action letter initiative to date, FINRA believes proposed Rule 4314 is consistent with the ALD Initiative. In addition, FINRA believes that it is appropriate to move forward with the proposed rule to address concerns regarding transparency and disclosure under these lending arrangements. If the Commission approves proposed FINRA Rule 4314 and thereafter an ALD no-action letter were to be issued by the SEC staff, and there were inconsistencies between the two, FINRA would carefully review the rule at that time and consider amendments, as necessary, to eliminate such inconsistencies.

The commenter also urges FINRA to clarify that, with respect to certain "anonymous loan markets," where the actual counterparty to securities loans and borrows is a central counterparty, that the required disclosures of Rule 4314 would be made to the central counterparty, and not any underlying counterparty.[14] FINRA understands that with respect to such "anonymous loan markets" the borrower's and lender's transactions are matched by an electronic borrow/loan system in a manner that does not disclose the borrowing and lending parties' identity to each other and the only known counterparty to both the borrower and the lender is the central counterparty, which acts as principal in the transactions with both the borrower and lender. In such cases, the disclosures required by Rule 4314 would be required to be made to the central counterparty.

2. Proposed FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities)

a. *Comments on Proposed FINRA Rule 4330(a)*

As described above, proposed FINRA Rule 4330(a) would retain the requirement in NYSE Rule 402(b) that a member obtain a customer's written authorization prior to lending the customer's margin securities. In addition, proposed Supplementary Material .02 would retain and codify NYSE Rule Interpretation 402(b)/01, which permits a member to satisfy the written authorization requirement by using a single customer signed margin agreement/loan consent, provided that it contains a legend in bold type face directly above the signature line substantially stating the following: "By Signing this Agreement I Acknowledge that My Securities May be Loaned to You or Loaned Out to Others."

One commenter generally supports the retention of NYSE Rule 402(b) and NYSE Rule Interpretation 402(b)/01.[15] However, that commenter and another commenter believe that firms currently have similar, but not identical language in the legends of their customer margin agreements, and they request that, to avoid substantial repapering costs for firms, existing customer margin agreements be grandfathered and the new language in the legend of proposed Supplementary Material .02 be required only for new margin customer agreements.[16] In response, FINRA notes that, since the legend in proposed Supplementary Material .02 is identical to the legend required by NYSE Rule Interpretation 402(b)/01, and since that legend, as explained in the interpretation, applies to "margin eligible securities," any existing customer margin account agreements containing such legend that includes the words "margin securities" would be deemed in compliance with the NYSE Rule Interpretation 402(b)/01 legend requirement and would continue to comply with proposed Supplementary Material .02. However, FINRA would expect firms to review existing customer margin account agreements for compliance and if, upon finding any non-compliant customer margin account agreements, have customers sign new customer margin account agreements.

In addition, one of the commenters requests that the proposed legend refer to "margin securities" to clarify that "the language is only meant to apply to margin securities (i.e., not excess margin securities or fully paid securities) in customer margin account agreements."[17] FINRA notes that proposed FINRA Rule 4330(a) and Supplementary Material .02 specifically address a member's obligation to obtain a customer's written authorization prior to lending the customer's margin securities. As such, while the legend does not specify "margin securities,"

[10] *See* ACI letter.
[11] *See* ACI letter.
[12] *See* SIFMA letter.
[13] *See* SIFMA letter.
[14] *See* SIFMA letter.
[15] *See* Fidelity letter.
[16] *See* Fidelity letter and SIFMA letter.
[17] *See* SIFMA letter.

FINRA believes that its inclusion in the section of the rule that is specific to the requirements for borrowing customer's margin securities, clarifies its applicability to margin securities. Accordingly, FINRA does not believe the change recommended by the commenter is necessary.

b. *Comments on Proposed FINRA Rule 4330(b)(1)(C)—Notification to FINRA*

As discussed further above, FINRA Rule 4330(b)(1)(C), as required in the *Notice*, would require a member borrowing a customer's fully paid or excess margin securities carried for the account of any customer, to notify FINRA in writing at least 30 days prior to engaging in such borrow activities.

One commenter recommends that FINRA clarify that the 30-day notification period applies only to a firm's initiation of a fully paid customer securities lending program and does not impose a separate requirement prior to entering into securities borrows with specific customers.[18] In addition, the commenter recommends that with respect to existing securities lending programs, notification could be provided to FINRA within a certain period of time after the new rules become effective.[19] Another commenter generally agrees with FINRA Rule 4330(b)(1)(C) as applied going forward to members that currently do not have programs in place to borrow customer fully paid or excess margin securities, but does not believe that there is any benefit to imposing this requirement on firms with existing programs that FINRA already reviews during both routine and "sweep" FINRA examinations.[20]

In response to comments, FINRA seeks to clarify that the notification requirement in proposed FINRA Rule 4330(b)(1)(C) applies prior to the time a firm first enters into either a fully paid or excess margin securities borrow program or if it has no program, prior to first entering into such fully paid securities borrows with one or more customers, and is proposing to amend the rule text accordingly. A notice is not required for each new customer that enters an established program. FINRA also is replacing the terms "borrow activities," "transaction" and "program" with the term "securities borrows" to make the terminology consistent throughout the provision. In addition, FINRA is adding proposed Supplementary Material .05 to address fully paid or excess margin securities borrows with customers that exist as of the effective date of this proposed rule, either as part of a program or outside of a program. In such cases, a member with any existing fully paid or excess margin securities borrows with customers as of the effective date of this rule, would be required to provide (1) written notification to FINRA within 30 days of the effective date of the new rule, in such manner and form as FINRA may require; and (2) such customers with the disclosures required by FINRA Rule 4330(b)(2)(B) within 90 days of the effective date of the new rule. FINRA recognizes that it may have knowledge of firms' existing fully paid securities borrow programs or fully paid borrows done outside of a program, through the examination process; however, FINRA believes the proposed notification requirement for such existing activities is not overly burdensome and would provide FINRA with a comprehensive view of a firm's activities after the effectiveness of the proposed rule.

c. *Comments on Proposed FINRA Rule 4330(b)(2)(A)—Suitability*

FINRA Rule 4330(b)(2)(A) as proposed in the *Notice* would require a member that borrows a customer's fully paid or excess margin securities, prior to entering into a securities borrow transaction with a customer, to determine that such transaction is suitable for the customer.

One commenter asks FINRA to clarify that suitability for purposes of this proposed new rule should apply with respect to a customer's overall participation in a fully paid securities lending program, and not on a transaction-by-transaction basis because this would be unduly burdensome and negatively impact the efficiency of security loans.[21] Another commenter requests further clarification on what would make a customer unsuitable to participate after a customer has been fully informed of the risks associated with the transaction, executes a master securities lending agreement with the firm which sets forth the terms and conditions of the loan, the loan is fully collateralized in accordance with SEA Rule 15c3–3(b)(3), and there are no limitations placed upon the customer's ability to sell the loaned security or draw upon the collateral.[22] The commenter further notes that it does not believe that a customer's investment objectives or net worth are applicable in determining whether customers should be able to generate additional income from their securities positions. The commenter agrees with FINRA's concern about customers buying hard-to-borrow securities for the sole intention of loaning them, but the commenter believes that NASD Rule 2310 (Recommendations to Customers—Suitability) would already cover this activity.[23]

In response to the commenters' concerns, FINRA is proposing to substantially revise the suitability provision in proposed paragraph (b)(2)(A) of Rule 4330. As revised, proposed paragraph (b)(2)(A) requires a member to have reasonable grounds for believing that the customer's loan(s) of securities are appropriate for the customer. In making this determination, the member must exercise reasonable diligence to ascertain the essential facts relative to the customer, including, but not limited to, the customer's financial situation and needs, tax status, investment objectives, investment time horizon, liquidity needs, risk tolerance and any other information the customer may disclose to the member or associated person in connection with entering such securities loans. To further address commenters' concerns about when this obligation arises in the customer relationship, FINRA is clarifying that a member must undertake this determination prior to first entering into securities borrows with a customer and not on a transaction-by-transaction basis. Accordingly, where a member has a securities borrow program, it would be required to determine the appropriateness of such activity for the customer prior to the customer entering into the *first* securities borrow. FINRA believes these proposed changes respond to commenters' concerns regarding the scope and application of the review.

d. *Comments on Proposed FINRA Rule 4330(b)(2)(B)—Risk Disclosures*

Proposed FINRA Rule 4330(b)(2)(B), as proposed in the *Notice*, would require members to provide a customer with certain specific information regarding the risks associated with the customer's securities loan transaction, prior to entering into a securities borrow transaction with a customer. Several commenters raise general concerns regarding the proposed disclosure requirement, as well as concerns about specific required disclosures.[24]

i. *Standardized Risk Disclosure Form*

[18] *See* SIFMA letter.

[19] *See* SIFMA letter.

[20] *See* Fidelity letter.

[21] *See* SIFMA letter.

[22] *See* Fidelity letter.

[23] NASD Rule 2310 (Recommendations to Customers—Suitability) has been superseded by FINRA Rule 2111 (Suitability). *See* SR–FINRA–2010–039, which was amended by SR–FINRA–2011–016 and SR–FINRA–2012–027 eff. July 9, 2012.

[24] *See* Plexus letter, SIFMA letter and Fidelity letter.

Two commenters support the idea that customers should be fully informed of the risks associated with lending their fully paid and excess margin securities but believe that an industry standard risk disclosure form should be developed to help ensure consistent standards across the industry.[25] In response, FINRA does not object to the development by the industry of a standardized risk disclosure form but cautions that such form may not be able to capture all of the risk disclosures specific to every member's individual fully paid or excess margin securities lending activities, and members should carefully evaluate their activities and disclosure obligations when considering adopting a standardized disclosure document to address their compliance with the proposed rule.

ii. *Disclosure of Limitation on the Customer's Ability to Sell the Loaned Securities*

Several commenters raise issues regarding the proposed requirement to disclose to the customer any limitations on the customer's ability to sell the loaned securities. Specifically, two commenters appear to raise issues relating to Regulation SHO and the SEC's guidance that if a person that has loaned a security to another person sells the security and a bona fide recall is initiated within two business days after trade date, the person that has loaned the security is "deemed to own" the security for purposes of Rule 200(g)(1) Regulation SHO, and such sale will not be treated as a short sale for purposes of the close-out requirements under Rule 204 of Regulation SHO. In addition, a broker-dealer may mark such orders as long sales provided such marking is in compliance with Rule 200(c) of Regulation SHO.[26] In particular, one of the commenters contends that, since the proposed disclosure is not intended to provide guidance on the marking of customers' sales as "long" or "short," or otherwise provide guidance concerning Regulation SHO, FINRA should either eliminate this proposed disclosure to avoid potential confusion or clarify that such orders to sell may be marked "long," provided there is compliance with applicable guidance regarding Regulation SHO.[27] The other commenter notes the SEC's guidance and states that there should not be any distinction between hypothecated margin securities (securities bought by the customer with funds borrowed from the firm) and fully paid or excess margin securities on loan, as long as it is reasonable to believe they can be recalled by settlement date for the sale.[28]

FINRA included the requirement to disclose "limitations on customer's ability to sell the loaned securities," in the original proposal as a result of concerns noted with regard to the adequacy of certain disclosures of material information to customers participating in the member's fully paid lending program including, specifically, failing to adequately disclose to customers that shares on loan could be sold at any time prior to recalling the shares or waiting for the delivery of shares back to their account. The proposed disclosure is not intended to address members' obligations under Regulation SHO or otherwise require members to provide guidance regarding Regulation SHO. FINRA believes the proposed disclosure will alert customers regarding their right to sell the securities and any limitations on the customer's ability to do so. However, to further clarify its intent, FINRA has modified the rule text to require members to disclose "the customer's right to sell the loaned securities and any limitations on the customer's ability to do so, if applicable."

iii. *Economics of the Transaction*

With respect to the proposed disclosure of the economics of the securities loan transaction, one commenter does not agree that this disclosure should include the rate that the firm would earn on the loaned securities because it would be irrelevant to the customer's decision.[29] In addition, the commenter argues that any such disclosed rate would not provide the customer with meaningful information to assist the customer in making any decision, since this rate would be only a rough estimate as there would be no way of knowing exactly what rate the security would be lent out at initially or over the life of the loan.[30] Another commenter, noting that there may be different prices for securities borrow transactions involving the same security, requests that FINRA clarify in its rule filing that firms will be expected to provide adequate disclosure to customers that the price for a securities lending transaction can be affected by a variety of different factors (e.g., size of the transaction, expected stability of the borrow, collateral posted).[31]

Although not specifically addressed to the proposed "economics of the transaction" disclosure, one commenter states that the required disclosures should include the most opaque parts of short selling and stock lending practices.[32] In the same vein, the commenter suggests that the broker-dealer be required to explain the rebate it receives and the fact that the resulting short sale may be against the customer's own interest and perhaps that other more powerful customers may indeed participate in these stock loan profits.

After reviewing the comments received, FINRA has amended proposed FINRA Rule 4330(b)(2)(B) to remove the term "economics of the transaction," and is proposing to add more specific guidance on the types of disclosures that should be provided to customers. Specifically, pursuant to the amended rule text, a member must disclose, among other things, the customer's rights with respect to the loaned securities, and the risks and financial impact associated with the customer's loan(s) of securities. Such disclosures would include, but not be limited to, (i) the loss of voting rights; (ii) the customer's right to sell the loaned securities and any limitations on the customer's ability to do so, if applicable; (iii) the factors that determine the amount of compensation received by the member and its associated persons in connection with the use of the securities borrowed from the customer; (iv) the factors that determine the amount of compensation (e.g., interest rate) to be paid to the customer and whether or not such compensation can be changed by the member under the terms of the borrow agreement; (v) the risks associated with each type of collateral provided to the customer; (vi) that the securities may be "hard-to-borrow" because of short-selling or may be used to satisfy delivery requirements resulting from short sales; (vii) potential tax implications, including payments deemed cash-in-lieu of dividends paid on securities while on loan; and (viii) the member's right to liquidate the transaction because of a condition of the kind specified in proposed Rule 4314(b). FINRA believes this list provides greater clarity to members regarding the disclosures on rights and risks that must be given to customers prior to engaging in such securities borrows. This list is not intended to be

[25] *See* SIFMA letter and Fidelity letter.

[26] *See* Fidelity letter and SIFMA letter. *See also* Securities Exchange Act Release No. 60388 (July 27, 2009), 74 FR 38266, 38270, n.55 (July 31, 2009); and "*SEC Division of Trading and Market Guidance Regarding Sale of Loaned But Recalled Securities*" (Published on the SEC's Web site on October 20, 2008).

[27] *See* SIFMA letter.

[28] *See* Fidelity letter.

[29] *See* Fidelity letter.

[30] *See* Fidelity letter. The commenter does believe that a disclosure regarding the economics of the transaction should include the rate the customer will be paid for the securities borrow loan transaction.

[31] *See* SIFMA letter.

[32] *See* Plexus letter.

exhaustive, and firms need to carefully consider the disclosures that are applicable to their specific activity/program.

One commenter seeks clarification that "for those principal lenders utilizing lending agents the recipient of the required disclosures should be lending agents in their capacity as such, and not the underlying principals." [33] FINRA believes that where the customer lender has legally authorized an agent to act on such customer's behalf in making a determination about whether to lend fully paid or excess margin securities to the member, the disclosures required pursuant to the proposed rule may be made to the lending agent in the lending agent's capacity as such, in lieu of being made to the underlying principal. FINRA also is proposing certain technical changes to the rule text as proposed in the *Notice* by adding headings to improve readability.

3. Proposed FINRA Rule 4340 (Callable Securities)

As detailed further above, proposed FINRA Rule 4340(a) would, among other things, require each member that has in its possession or under its control any security which, by its terms, may be called or redeemed prior to maturity, to establish and make available on the member's Web site procedures by which it will allocate among its customers the securities to be redeemed or selected as called in the event of a partial redemption or call.

One commenter requests that FINRA clarify whether the requirement that a member post its allocation procedures on its Web site would require a firm "to provide detailed, granular procedures" or whether it would be sufficient to provide a general statement describing its allocation procedures.[34] The commenter is concerned that, if detailed procedures are required, firms that clear through third parties and self-clearing firms using service bureaus systems would be unable to comply with the requirement as such procedures would constitute the third-parties' proprietary information that firms would not be able to disclose without permission from the third parties. In response, FINRA notes that the proposed rule requirement is intended to require a member to describe its allocation procedures in sufficient detail to allow customers to understand the process for partial redemptions and the outcome of such processes. FINRA does not believe that such description generally would require a member to disclose a third-party's proprietary information.

[33] *See* SIFMA letter.

[34] *See* SIFMA letter.

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 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–FINRA–2013–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2013–035. 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 principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2013–035 and should be submitted on or before September 24, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21300 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70268; File No. SR–FINRA–2013–032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Series 16 Examination Program

August 27, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "SEA") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 20, 2103, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as "constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule" under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is filing revisions to the content outline and selection specifications for the Supervisory Analyst (Series 16) examination program.[5] The proposed revisions update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Supervisory Analyst. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised content outline is attached.[6] The Series 16 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act[8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

Incorporated NYSE Rules 344, 344.11 and 472(a)(2)[9] and NYSE Rule Interpretations 344/03 and/04 require an individual who is responsible for approving research reports at a Dual Member to be registered and qualified as a Supervisory Analyst.[10] Such person is required to present evidence of appropriate experience (which is having at least three years prior experience within the immediately preceding six years involving securities or financial analysis) and pass the Supervisory Analyst (Series 16) qualification examination. Rather than passing the entire Supervisory Analyst qualification examination, such person may obtain a waiver from Part II of the Supervisory Analyst qualification examination upon verification that the person has passed Level I of the Chartered Financial Analyst ("CFA") examination. NYSE Rule 472(a)(2) further provides that where a Supervisory Analyst lacks technical expertise in a particular product area that is the subject of a research report, the content in the report may be co-approved by a product specialist; if no such expertise resides within the member, the rule requires the member to arrange approval by a qualified outside Supervisory Analyst.

In consultation with a committee of industry representatives, FINRA recently undertook a review of the Series 16 examination program. As a result of this review, FINRA is proposing to make revisions to the content outline to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Supervisory Analyst. FINRA also is proposing to make changes to the format of the content outline.

Current Outline

The current content outline is divided into two critical parts, each of which has 50 questions:

Part I: Regulatory Administration; and

Part II: Securities Analysis.

Part I includes the respective applicable laws, rules and regulations, and Part II includes technical and analytical knowledge. The current outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference material.

Proposed Revisions

FINRA is proposing to rename Part I and Part II of the outline and include two major job functions under each part. The following are the renamed parts and major job functions, with the associated number of questions:

Part I. Regulations:

Function 1: Review and approve research analysts' communications to ensure compliance with applicable SEC and FINRA rules and regulations, and firm policies and procedures (34 questions); and

Function 2: Serve as liaison between the Research Department and other internal and external parties (16 questions).

Part II. Valuation of Securities:

Function 1: Review the content of the report to assess the accuracy, consistency and sources of data and calculations included in the report (16 questions); and

Function 2: Review the content of the report to ensure a reasonable basis exists for the analyst's conclusions (*e.g.*, price targets, recommendations, ratings, estimates, and valuation parameters) (34 questions).

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[5] FINRA also is proposing corresponding revisions to the Series 16 question bank. Based on instructions from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank for review. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

[6] The Commission notes that the revised content outline is attached to the filing as Exhibit 3a, not to this Notice

[7] 17 CFR 240.24b–2.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process). For convenience, the Incorporated NYSE Rules are hereinafter referred to as the NYSE Rules.

[10] In addition, pursuant to FINRA Rules and NASD Rules, a Supervisory Analyst may approve: (1) Research reports on debt and equity securities; (2) retail communications that are excepted from the definition of "research report" under NASD Rule 2711(a)(9)(A); (3) other research that does not meet that definition of "research report" under NASD Rule 2711(a)(9), provided that the Supervisory Analyst has technical expertise in the particular product area and any other required registrations; (4) third-party research reports; and (5) globally branded research reports prepared by foreign research analysts, as a condition for an exemption from the research analyst registration requirements. *See* NASD Rule 1050(f)(3)(A); FINRA Rule 2210(b)(1)(B) and NASD Rule 2711(h)(13)(C). Accordingly, in addition to testing knowledge of applicable NYSE Rules, the Series 16 examination program tests knowledge of applicable FINRA Rules and NASD Rules.

Each function also includes specific tasks describing activities associated with performing that function. There are five tasks (T1 through T5) associated with Part I, Function 1; four tasks (T6 through T9) associated with Part I, Function 2; three tasks (T1 through T3) associated with Part II, Function 1; and six tasks (T4 through T9) associated with Part II, Function 2.[11] By way of example, one such task (T5, Part I, Function 1) is to verify that a research report includes all applicable required disclosures.[12] In addition, the outline lists with respect to Part I the laws, rules and regulations a candidate is expected to know to perform the functions and associated tasks outlined in that part. These include the applicable FINRA Rules (*e.g.*, FINRA Rule 2210), NASD Rules (*e.g.*, NASD Rule 2711), NYSE Rules (*e.g.*, NYSE Rule 344) and SEC rules (*e.g.*, Securities Act Rule 137).[13] Further, the outline lists with respect to Part II the technical and analytical knowledge (*e.g.*, analysis of packaged securities) required to perform the functions and associated tasks outlined in that part.[14]

FINRA conducted a job analysis study of Supervisory Analysts, which included the use of a survey, in developing the functions and tasks and updating the required knowledge set forth in the revised outline. The functions and tasks, which appear in the revised outline for the first time, reflect the day-to-day activities of a Supervisory Analyst.

As noted above, FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of rules in the consolidated FINRA rulebook (*e.g.*, NASD IM–2110–4 (Trading Ahead of Research Reports) was consolidated as FINRA Rule 5280 (Trading Ahead of Research Reports)).[15]

FINRA is proposing similar changes to the Series 16 selection specifications and question bank.

Finally, FINRA is proposing to make changes to the format of the content outline, including the preface, sample questions and reference material. Among other changes, FINRA is proposing to: (1) Add a table of contents;[16] (2) provide more details regarding the purpose of the examination and a list of the types of communications that can be approved by a Supervisory Analyst;[17] (3) provide more details on the required experience to be eligible to register as a Supervisory Analyst and a list of examples of appropriate experience;[18] (4) explain that the passing scores are established by FINRA staff, in consultation with a committee of industry representatives, using a standard setting procedure and that the scores are an absolute standard independent of the performance of candidates taking the examination;[19] (5) note the required waiting periods for retaking failed examinations;[20] (6) note that each candidate will receive a score report at the end of the test session, which will indicate a pass or fail status and include a score profile listing the candidate's performance on each major content area covered on the examination;[21] and (7) delete Appendix 1, Financial Ratios and Formulas Reference, which provided a sampling of the types of ratios and formulas that relate to Part II of the outline.

The number of questions on the Series 16 examination will remain at 100 multiple-choice questions (50 multiple-choice questions for each part), and candidates will continue to have one and one-half hours to complete Part I of the examination and two hours to complete Part II. Currently, a score of 72 percent is required to pass Part I of the examination, and a score of 74 percent is required to pass Part II. The passing scores will remain the same.

Availability of Content Outlines

The current Series 16 content outline is available on FINRA's Web site, at *www.finra.org/brokerqualifications/exams*. The revised Series 16 content outline will replace the current content outline on FINRA's Web site.

FINRA is filing the proposed rule change for immediate effectiveness. FINRA proposes to implement the revised Series 16 examination program on October 28, 2013. FINRA will announce the proposed rule change and the implementation date in a *Regulatory Notice*.

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 16 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[22] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[23] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that the proposed revisions will further these purposes by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Supervisory Analyst.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by Supervisory Analysts and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and tasks. As such, the proposed revisions would make the examination more efficient and effective.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[24] and paragraph (f)(1) of Rule 19b–4 thereunder.[25] 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 should be approved or disapproved.

[11] *See* Exhibit 3a, Outline Pages 7 and 10.

[12] *See* Exhibit 3a, Outline Page 7.

[13] *See* Exhibit 3a, Outline Pages 7–9.

[14] *See* Exhibit 3a, Outline Pages 10–13.

[15] *See also* Rule Conversion Chart, available at *http://www.finra.org/Industry/Regulation/FINRARules/p085560*.

[16] *See* Exhibit 3a, Outline Page 2.

[17] *See* Exbibit 3a, Outline Page 3.

[18] *See* Exhibit 3a, Outline Page 3.

[19] *See* Exhibit 3a, Outline Page 5.

[20] *See* Exhibit 3a, Outline Page 6.

[21] *See* Exhibit 3a, Outline Page 6.

[22] 15 U.S.C. 78*o*–3(b)(6).

[23] 15 U.S.C. 78*o*–3(g)(3).

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(1).

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–FINRA–2013–032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2013–032. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2013–032 and should be submitted on or before September 24, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–21296 Filed 8–30–13; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before November 4, 2013.

ADDRESSES: Send all comments to Patrick Kelley, Deputy Associate Administrator, Office of Capital Access, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Patrick Kelley, Deputy Associate Administrator, 202–205–0067, *patrick.kelley@sba.gov*, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) authorizes SBA to guarantee loans made by banks or other financial institutions to qualified small businesses for the purposes of plant acquisition, construction, conversion, or expansion, and/or for the acquisition of land, materials, supplies, equipment, or working capital. SBA is proposing to make several changes to the information collections related to the application process for all loan processing methods for the Agency's 7(a) loan program. The information collected from the small business applicants and participating lenders is used to determine eligibility and to properly evaluate and consider the merits of each loan request based on such criteria as character, capacity, credit, collateral, etc. for the purpose of extending credit under the 7(a) loan program.

SBA proposes to discontinue use of: (a) SBA Form 4 and Form 4–I (OMB Control Number 3245–0016); and (b) SBA Form 2301(A, B, C & D) and Form 7 (OMB Control Number 3245–0361). The Form 4 series is the currently approved loan application for standard 7(a) program, and the Form 2301 series is the currently approved application for SBA's Lender Advantage programs (Small/Rural Lender Advantage and Community Advantage Pilot Loan Program). In lieu of these two information collections, SBA proposes to use Form 1919, Form 1920SX (B & C) and Form 2237 (OMB Control Number 3245–0348) to collect the application related information currently collected by the proposed discontinued forms. As a result, SBA proposes changes to the Form 1919 series (OMB Control Number 3245–0348) to ensure that all of the information necessary to process applications for the affected loan programs is captured in the consolidated forms.

SBA would also make various substantive changes to this proposed consolidated information collection to conform the forms to pending changes in the 7(a) loan program. Specifically, changes are pending that will clarify the credit analysis and collateral requirements for the 7(a) program, and require all application forms be submitted to SBA electronically. Finally, the Dealer Floor Plan Pilot Loan Program will be removed from the forms as the pilot will expire September 30, 2013.

(a) Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

(b) Summary of Information Collection

Title: SBA Express, Export Express, Small Loan Advantage, PLP–Caplines, and Pilot Loan Programs (Patriot Express and Dealer Floor Plan).

Description of Respondents: Small businesses applying for an SBA 7(a) loan and lenders participating in that program.

Form Numbers: (i) *Form 1919:* SBA Express, Export Express, Small Loan Advantage, PLP–CAPLines, and Pilot Loan Programs (Patriot Express and

[26] 17 CFR 200.30–3(a)(12).

Dealer Floor Plan) Borrower Information Form. This form collects identifying information regarding the applicant, loan request, indebtedness, information about the principals, information about current or previous government financing, and certain other disclosures.

(ii) *Form 1920SX (Part A):* SBA Express, Export Express, Small Loan Advantage, PLP–CAPLines and Pilot Loan Programs (Patriot Express and Dealer Floor Plan) Guaranty Request: This form will no longer be used as it is a fax coversheet and all applications will be submitted to SBA electronically.

(iii) *Form 1920SX (Part B):* Supplemental Information for SBA Express, Export Express, Small Loan Advantage, Pilot Loan Programs and PLP Processing. This form is completed by the 7(a) Lender. This form includes, among other things, identifying information regarding the lender, loan terms, and use of proceeds.

(iv) *Form 1920SX (Part C):* Eligibility Information Required for SBA Express, Export Express, Small Loan Advantage, PLP–CAPLines and Pilot Loan Programs (Patriot Express and Dealer Floor Plan). This form is completed by the 7(a) Lender. It consolidates eligibility criteria regarding the loan applicants, including use of proceeds and general rules applicable to SBA Express, Export Express, Small Loan Advantage, PLP–CAPLines, Patriot Express and Dealer Floor Plan.

(v) *Form 2237:* 7(a) Loan Post Approval Action Checklist. This form is completed by the Lender and submitted to SBA for post-approval changes to the loan.

(vi) *Form 2238:* Supplemental Information for SBA Express/Patriot Express Guaranty Request (Eligibility Authorized). This form is completed by the Lender that has been designated as "eligibility authorized." This form will no longer be used.

Total Estimated Annual Responses: 165,930.

Total Estimated Annual Hour Burden: 275,055.

Dated: August 26, 2013.

Yvonne K. Wilson,

Chief, Administrative Information Branch.

[FR Doc. 2013–21242 Filed 8–30–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one extension and revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than November 4, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Continuing Disability Review Report—20 CFR 404.1589, 416.989—0960–0072. Sections 221(i), 1614(a)(3)(H)(ii)(I), and 1633(c)(1) of the Social Security Act (Act) require SSA to periodically review the cases of individuals who receive disability benefits under title II or title XVI to determine if the individuals' disabilities continue. SSA uses Form SSA–454, Continuing Disability Review Report, to complete the review for continuing disability. SSA considers adults eligible for payment if they continue to be unable to do substantial gainful activity because of their impairments, and we consider title XVI children eligible for payment if they have marked and severe functional limitations because of their impairments. SSA also uses Form SSA–454 to obtain information on sources of medical treatment; participation in vocational rehabilitation programs (if any); attempts to work (if any); and if individuals believe their conditions have improved. The respondents are title II or title XVI disability recipients or their representatives.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–454–BK (Paper version)	270,500	1	60	270,500
Electronic Disability Collect System	270,500	1	60	270,500
Totals	541,000		541,000	498,892

2. Appointment of Representative—20 CFR 404.1707, 404.1720, 404.1725, 410.684 and 416.1507—0960–0527. Persons claiming rights or benefits under the Act must notify SSA in writing when they appoint an individual to represent them in their dealings with SSA. SSA collects the information on Form SSA–1696–U4 to verify the appointment of such representatives. The SSA–1696–U4 allows SSA to inform representatives of items that affect the recipient's claim, and allows claimants to give permission to their appointed representatives to designate a person to receive their claims files. Respondents are applicants for or recipients of Social Security benefits or Supplemental Security Income payments who are notifying SSA they have appointed a person to represent them in their dealings with SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1696–U4	800,000	1	10	133,333

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than October 3, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Travel Expense Reimbursement—20 CFR 404.999(d) and 416.1499—0960–0434. The Act stipulates that Federal and State agencies reimburse travel expenses for claimants, their representatives, and all necessary witnesses for travel exceeding 75 miles to attend medical examinations, reconsideration interviews, and proceedings before an administrative law judge. Reimbursement procedures require the claimant to provide (1) a list of expenses incurred and (2) receipts of such expenses. Federal and State personnel review the listings and receipts to verify the amount reimbursable to the requestor. The respondents are claimants for title II benefits and title XVI payments, their representatives and witnesses.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
404.999(d) & 416.1499	60,000	1	10	10,000

2. Request for Accommodation in Communication Method—0960–0777. SSA allows blind or visually impaired Social Security applicants, beneficiaries, recipients, and representative payees to choose one of seven alternative methods of communication they want SSA to use when we send them benefit notices and other related communications. The seven alternative methods we offer are: (1) Standard print notice by first-class mail; (2) standard print mail with a follow-up telephone call; (3) certified mail; (4) Braille; (5) Microsoft Word file on data CD; (6) large print (18-point font); or (7) audio CD. However, respondents who want to receive notices from SSA through a communication method other than the seven methods listed above must explain their request to us. Those respondents use Form SSA–9000 to: (1) Describe the type of accommodation they want, (2) disclose their condition necessitating the need for a different type of accommodation, and (3) explain why none of the seven methods described above are sufficient for their needs. SSA uses Form SSA–9000 to determine, based on applicable law and regulation, whether to grant the respondents' requests for an accommodation based on their blindness, or other visual impairment. SSA collects this information electronically through either an in-person interview or a telephone interview during which the SSA employee keys in the information on Intranet screens. The respondents are blind or visually impaired Social Security applicants, beneficiaries, recipients, and representative payees who ask SSA to send notices and other communications in an alternative method besides the seven modalities we currently offer.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–9000	1,417	1	20	472

Dated: August 28, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–21315 Filed 8–30–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8448]

Culturally Significant Objects Imported for Exhibition Determinations: "Jewels by JAR"

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 objects to be included in the exhibition "Jewels by JAR," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of

Art, from on or about November 20, 2013, until on or about March 9, 2014, 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 a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 27, 2013.

Lee Satterfield,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–21372 Filed 8–30–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8447]

Foreign Affairs Policy Board Meeting Notice: Closed Meeting; Notice of Rescheduling

The meeting of the Foreign Affairs Policy Board, formerly scheduled for September 9, 2013, has been rescheduled to September 11, 2013. See 78 FR 51266, for the prior notice for the meeting as well as the Department's closed meeting determination.

For more information, contact Samantha Raddatz at (202)-647–2972.

Dated: August 27, 2013.

Andrew McCracken,

Designated Federal Officer.

[FR Doc. 2013–21373 Filed 8–30–13; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Uniform Fine Assessment Version 4.0 Software; Calculating Amounts of Civil Penalties for Violations of Regulations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA announces that the Agency has begun using the Uniform Fine Assessment (UFA) Version 4.0 software to calculate the amounts of civil penalties for violations of the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs). FMCSA is required to consider certain statutory factors when proposing civil penalties for violations of the FMCSRs and HMRs and since the mid-1990's FMCSA has used its UFA software to consider those statutory factors. FMCSA has updated the UFA software to ensure that it adequately considers the statutory penalty factors for all statutes and regulations enforced by FMCSA; to implement the Agency's policy for consideration of the Small Business Regulatory Enforcement Fairness Act; and, to ensure uniformity in proposed civil penalties. UFA 4.0 software also considers the factors set forth in 49 U.S.C. 521(b)(2)(D) for violations of regulations where no statutory factors are otherwise specified by statute. To enhance transparency of the civil penalty calculation, UFA 4.0 generates a report detailing the calculations used to propose civil penalties. While UFA 4.0 is used to calculate the majority of civil penalties proposed by FMCSA, the Agency may propose a civil penalty outside of UFA 4.0 when the proposed civil penalty calculated by UFA 4.0 would not promote enhanced commercial motor vehicle safety or induce prompt and sustained compliance. In such cases, the Agency will nevertheless consider the applicable statutory factors to assess a penalty. This **Federal Register** Notice supersedes the **Federal Register** Notice issued by FMCSA entitled, "Civil Penalty Calculation Methodology. " 76 FR 71431, November 17, 2011.

DATES: The UFA 4.0 software will be used to calculate penalties based on investigations that are initiated on or after August 12, 2013.

FOR FURTHER INFORMATION CONTACT: Peter Hines, Office of Chief Counsel, Federal Motor Carrier Safety Administration, 4749 Lincoln Mall Drive, Suite 300, Matteson, IL 60443, by telephone at (708) 283–3568 or via email at *peter.hines@dot.gov*. Office hours are from 9 a.m. to 5 p.m. CT, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 521(b)(2)(D), 5123(c), 14901(c), 31138 and 31139, FMCSA must consider specific prescribed factors in determining the amount of civil penalties assessed for violations of the statutes and regulations for which FMCSA has enforcement authority. The purpose of the UFA 4.0 software is to assist FMCSA in ensuring uniformity and fairness in the application of mandatory statutory factors in calculating proposed civil penalties for violations of the FMCSRs, HMRs, commercial regulations, rules concerning minimum levels of financial responsibility, registration regulations, and other statutes and regulations enforced by FMCSA. The software is designed to ensure that statutory, regulatory, and administrative policies are considered in determining each penalty assessment, to promote uniformity in assessments throughout FMCSA, and to create transparent and easily understood assessments. UFA 4.0 is not intended to assess the same civil penalty for the same violations against every motor carrier, but to assess a penalty that is consistent between carriers of similar circumstances.

FMCSA has used its UFA software to calculate penalties since the mid-1990's. Under a long line of administrative decisions, starting with *Alfred Chew & Martha Chew, dba Alfred & Martha Chew Trucking*, FHWA–1996–5323 (Final Order, Feb. 7 1996), FMCSA and its predecessor agency have held that UFA is presumed to properly consider the statutory penalty factors under 49 U.S.C. 521(b)(2)(D), 49 U.S.C. 5123(c), and 49 U.S.C. 31138 and 31139.

UFA 4.0 simplifies the algorithm previously used to calculate proposed penalties. The software also incorporates the increased penalties mandated by The Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141 (July 6, 2012). UFA 4.0 takes into account the factors set forth in 49 U.S.C. 521(b)(2)(D) for violations of the FMCSRs, 49 U.S.C. 5123(c) for violations of the HMRs, 49 U.S.C. 14901(c) for violations concerning transportation of household goods, and 49 U.S.C. 31138 and 31139 for violations of regulations related to financial responsibility.

Congress has not delineated statutory penalty factors (other than minimum and/or maximum penalties) for violations of operating authority registration requirements, other commercial regulations (49 CFR Parts 360–379) and Commercial Driver's License regulations (Parts 382 and 383). FMCSA has determined that the use of the statutory factors in 49 U.S.C. 521(b) (the factors used to assess penalties for violations of FMCSRs) are appropriate for these violations as well as for any other statutory or regulatory violations where Congress has not identified any specific factors the Agency is required to consider in assessing civil penalties. Use of the statutory factors promotes uniformity and consistency in the Agency's determination of the appropriate amount of civil penalties.

Statutory, Regulatory and Administrative Requirements of Penalties

FMCSA must consider specific factors before proposing civil penalties for the majority of regulations it enforces. These factors are specified by statute.

Regulations	Applicability	Statute setting forth penalty factors to be considered
FMCSRs	49 CFR 350–399	49 U.S.C. 521(b)(2)(D).
HMRs	49 CFR 171–180; 49 CFR Part 385—Subpart E (HM Safety Permits), CDL HM Endorsement (49 CFR 383.121); violations of certain HM related out-of-service orders.	49 U.S.C. 5123(c).
Minimum financial responsibly violations (Insurance).	49 CFR Part 387	49 U.S.C. 31138 and 31139 (same factors for both sections).
HHG (household goods) regulations	49 CFR Part 375	49 U.S.C. 14901(c).

Specific penalties, as well as minimum and maximum penalties, may be established by statute for violations of the regulations or statutes enforced by FMCSA. Appendices A and B of 49 CFR Part 386, as amended, also set forth penalties for violations of the regulations enforced by FMCSA. To ensure that penalties promote prompt and sustained compliance, and promote the interests of safety, FMCSA has also established administrative minimum and maximum penalties by policy where no specific penalties, and no minimum or maximum penalties, are provided by statute. The FMCSA Penalty Assessment Table identifies the minimums and maximums used in the UFA 4.0 calculation. The Penalty Assessment Table is posted at *www.fmcsa.dot.gov/penaltyassessments.*

UFA 4.0 software will not propose a penalty below an applicable minimum statutory penalty or above the applicable maximum statutory penalty. UFA 4.0 software may, however, generate a proposed penalty below an administrative minimum or above an administrative maximum. For example, UFA 4.0 will disregard an administrative maximum for violations that are charged under Section 222 of the Motor Carrier Safety Improvement Act of 1999, Public Law 106–159, Title II (Dec. 9, 1999), codified in 49 U.S.C. 521. Section 222 requires FMCSA to assess maximum statutory penalties if a violator is found to have committed a pattern of violations of critical or acute regulations, or previously committed the same or a related violation of critical or acute regulations. FMCSA previously published notices regarding its policies on assessing maximum penalties under Section 222. Copies of these policy notices can also be found at *www.fmcsa.dot.gov/penaltyassessments.*

Explanation of the Statutory Factors

Many of the statutory penalty factors for the FMCSRs, HMRs, HHG rules, and minimum financial responsibility are identical. The explanation of the factors below applies to each type of violation, except where indicated. Some of the factors are considered for each violator and others are considered for each violation.

Violation Factors

1. "Nature" of violation. UFA 4.0 considers the nature of a violation by assigning the violation to a category based on the type of violation and whether the violation is by an individual or entity, and by establishing a penalty range consistent with the nature of the violation. Violations of a similar nature are grouped together and have been assigned a minimum and maximum fine amount. A breakdown of the different categories will be shown on the Penalty Assessment Table at *www.fmcsa.dot.gov/penaltyassessments.*

2. "Circumstances" of violation. UFA 4.0 considers the circumstances by evaluating the conditions, factors, or events accompanying the violation that, when present, may serve to increase or decrease a fine determination. These variables are considered cumulatively. Mitigating factors are any acts by the violator or situations which are extenuating or explanatory of the violation. Aggravating factors are any acts by the violator or situations which exacerbate, frustrate, or worsen the violation. These circumstances must not have been taken into account in any of the other statutory penalty factors. UFA 4.0 will use one of the following three choices for circumstances of the violation to calculate a fine: none, aggravating, or mitigating. An explanation of the specific point values and how they are applied to calculate a penalty is included in the "Explanation of Calculations" document published at *www.fmcsa.dot.gov/penaltyassessments.*

3. For HHG violations, "harm to shipper or shippers" (see 49 U.S.C. 14901(c)) means the monetary impact of the violation to the shipper (owner) of the household goods.

4. For HHG violations, "whether the shipper has been adequately compensated before institution of the proceeding" (see 49 U.S.C. 14901(c)) means compensation to the shipper (owner) of the household goods before the administrative civil penalty proceedings occurred.

5. "Extent" is considered by evaluating the magnitude, scope, and frequency of the violations found as the result of an investigation. It measures whether the violation is isolated or widespread. Extent in UFA 4.0 is based on the percentage of violations discovered divided by the number of records checked. For example, if FMCSA discovers twenty false records of duty status [a violation of 49 CFR 395.8(e)], after checking 200 records of duty status, the extent of the violation would be 10 percent (20 divided by 200). The resulting percentage is either high (greater than or equal to 10 percent) or low (less than 10 percent).

UFA 4.0 automatically calculates extent based on the number discovered versus the number checked and assigns point levels based on low or high levels of extent. Violations by individuals (usually drivers) and violations stemming from single incidents are each considered to have a low extent if there is a 1 of 1 discovered violation rate. Companies having a 1 of 1 discovered violation rate during an investigation will be considered to have a high extent (100 percent). Interested parties may review this information at: *www.fmcsa.dot.gov/penaltyassessments.*

6. "Gravity" is considered by evaluating the seriousness of the violation. Gravity points are assigned as

low, medium, high, or contributed to a crash or HM incident. If the violation caused a crash or an HM incident, the highest points will be assigned. If the violation caused an HM incident which resulted in a fatality, serious injury, illness or destruction of property, a maximum fine of $175,000 may be assessed, overriding all other aspects of the UFA model. Interested parties may review this information at *www.fmcsa.dot.gov/penaltyassessments.*

Violator Factors

1. "Culpability" is considered by evaluating the violator's conduct or actions and knowledge of the violations, conditions, or practices that led to the discovered violations. It is an assessment of the violator, not the individual violation, and takes into account the fault level of the violator. For UFA, it is broken into 3 categories:

a. Should have known of any of the discovered violation(s);

b. Knew of any of the violation(s); and

c. Intentional for any discovered violation(s).

Intentional violations of the regulations are assigned the highest number or points. Points are automatically assigned by UFA based on the selection of knowledge level relative to the conduct of the violator. When available, see *www.fmcsa.dot.gov/penaltyassessments.*

2. "History" is considered by evaluating the violator's enforcement history with any U.S. Department of Transportation modal administration. Enforcement history is a major factor since it provides an indication of both the carrier's or individual's awareness of its safety obligations and its willingness to comply with the regulations. The history criteria relates to the violator (not the individual violation) and is determined by looking at the violator's closed cases (cases where there has been a finding of liability for the violations or where the violator has admitted the violations) in the previous six years and selecting one of the following levels:

a. No enforcement history;

b. Penalized for violation(s) in any other part(s);

c. Penalized for violation(s) in the same part(s); and,

d. Penalized for two or more prior cases or a prior case for violation of an Order.

In enforcement cases including HHG violations, UFA 4.0 will consider enforcement history, pursuant to 49 U.S.C. 14901(c), only if the past violations are similar in nature to the HHG violations in the current enforcement case. UFA automatically assigns points based on the history level indicated. See *www.fmcsa.dot.gov/penaltyassessments.*

3. "Effect on ability to continue to do business" and "ability to pay" are considered by capping the proposed penalty at 2 percent of the violator's gross revenue. UFA refers to this limitation on a total penalty as the "Gross Revenue Cap." FMCSA has determined that capping most penalties at 2 percent of the violator's gross revenue will allow most carriers to remain in business while inducing compliance with the regulations. Assessments will be lowered by the UFA 4.0 software to an amount equal to or below the Gross Revenue Cap, if needed. UFA 4.0 will assess a penalty below an administrative minimum if necessary to keep the total penalty below the Gross Revenue Cap. In some cases, such as when a minimum statutory penalty exceeds the Gross Revenue Cap, or where FMCSA asserts a maximum civil penalty pursuant to Section 222 of MCSIA, the penalties will not be reduced to an amount equal or below the Gross Revenue Cap.

4. "Such other matters," as justice, fairness, and public safety may require, are considered by taking into account those factors that are not otherwise specified in the statute, but that nevertheless, have some bearing on the proposal of a civil penalty in the interests of justice and public safety in order to achieve the purposes of compliance. For purposes of calculating the amount of civil penalties, FMCSA has determined that corrective actions taken by the violator and the timing of those corrective actions are matters that are included within this category and may result in a reduction in the penalty. See *www.fmcsa.dot.gov/penaltyassessments.*

Violation Calculations

All calculations are made internally within the UFA 4.0 software based on the entries made by the user and the points assigned. UFA will reduce penalties for small businesses by 20 percent to comply with the Small Business Regulatory Enforcement Fairness Act, Public Law 104–121 (Mar. 29, 1996), codified in 5 U.S.C. 801, et seq. (SBREFA) when such reductions are applicable. FMCSA uses the Table of Small Business Size Standards, published periodically by the Small Business Administration, to identify small businesses.

FMCSA believes that a 20 percent difference in penalties between large and small businesses of similar circumstances is a reasonable exercise of the Agency's discretion and balances the principles of SBREFA with the requirement of 49 U.S.C. 521 to calculate penalties that are designed to induce further compliance with federal laws and regulations. Section 223 of SBREFA permits agencies to refrain from reducing penalties for small businesses in certain circumstances, such as when a small business has been subject to multiple enforcement actions by the agency, when the small business has engaged in willful or criminal conduct, or when the violations pose serious health, safety or environmental threats.

FMCSA will not apply the 20 percent reduction under SBREFA to a small business whose conduct corresponds to one of the exclusions listed in Section 223 of SBREFA. In addition to potential reductions for small businesses, reductions can occur to ensure that the total penalty does not exceed the Gross Revenue Cap. The UFA 4.0 methodology establishes a range of penalties for each violation, and when UFA reduces a penalty, it does so proportionally, based upon the ranges for each violation, rather than by a percentage of the total civil penalty assessment. Reductions must also take into consideration statutory and administrative minimum requirements. A detailed explanation of the algorithm used by UFA 4.0 to calculate penalties is included in the "Explanation of Calculations" document that will be published at *www.fmcsa.dot.gov/penaltyassessments.* The User Manual that includes instructions for the use of UFA 4.0, a public version of the UFA software and FMCSA policies for the assessment of penalties, are available on the penalty assessment Web site at *www.fmcsa.dot.gov/penaltyassessments.*

The public version of UFA 4.0 will be modified to prevent accidental submission of data to FMCSA production databases.

Issued on: August 27, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–21278 Filed 8–29–13; 11:15 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2013 0099]

Request for Comments of a Previously Approved Information Collection

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 3, 2013. No comments were received.

DATES: Comments must be submitted on or before October 3, 2013.

FOR FURTHER INFORMATION CONTACT: Bill Kurfehs, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–2318 or EMAIL: *bill.kurfehs.@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Voluntary Tanker Agreement

OMB Control Number: 2133–0505

Type of Request: Extension of currently approved collection.

Affected Public: U.S.-flag and U.S. citizen-owned vessels that are required to respond under current statute and regulation.

Form(s): MA–1060

Abstract: This collection of information is used to gather information on tanker operators who agree to contribute, either by direct charter to the Department of Defense or to other participants tanker capacity as requested by the Maritime Administrator at such times and such amounts as determined to be necessary to meet the essential needs of DOD for the transportation of petroleum and petroleum products in bulk by sea. The Voluntary Tanker Agreement is a voluntary emergency preparedness agreement in accordance with Section 708, Defense Production Act, 195, as amended (50 U.S.C. App. 2158).

Annual Estimated Burden Hours: 15 hours

Addresses: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: MARAD Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs, Office of Management and Budget, at the following address: *oira.submissions@omb.eop.gov.*

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 information collection; (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 respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Authority: 49 CFR 1.93.

Issued in Washington, DC, on August 27, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–21335 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2013 0099]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before November 4, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Ann Thomas, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–2646 or EMAIL: *patricia.thomas@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title of Collection: Merchant Marine Medals and Awards.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0506.

Form Numbers: None.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: This information collection of information provides a method of awarding merchant marine medals and decorations to masters, officers, and crew members of U.S. ships in recognition of their service in areas of danger during the operations by the Armed Forces of the United States in World War II, Korea, Vietnam, and Operation Desert Storm.

Need and Use of the Information: This information is used by MARAD personnel to process and verify requests for service awards.

Description of Respondents: Master, officers and crew members of U.S. ships.

Annual Responses: 550 responses.

Annual Burden: 550 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://www.regulations.gov.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. *EDT (or EST),* Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://www.regulations.gov.*

Privacy Act: Anyone is able to search the electronic form of all 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 you may visit *http://www.regulations.gov.*

Authority: 49 CFR 1.93.

By Order of the Maritime Administrator.

Dated: August 27, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–21334 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0098]

Notice of Request for a New Information Collection

AGENCY: Maritime Administration.

ACTION: Correction of a previous published Notice and request for comments.

SUMMARY: The Maritime Administration published a document in the **Federal Register** on Thursday, June 6, 2013 (78 FR 34152), concerning a request for a new information collection. In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is correcting the document as set forth below.

FOR FURTHER INFORMATION CONTACT: Barbara Jackson, U.S. Department of Transportation, Office of Management and Administrative Services, Maritime Administration, (202) 366–0615, 1200 New Jersey Avenue SE., Washington, DC 20590.

Correction

In the [Thursday, June 6, 2013], **Federal Register** [78, 34152], the Department [*Title:* Generic Clearance of Customer Satisfaction Surveys; *Estimated Number of Respondents:* 5800; *Annual Estimated Total Annual Burden Hours:* 1558].

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Dated: August 27, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–21336 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0096]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BREAKAWAY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 3, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0096. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BREAKAWAY is:

INTENDED COMMERCIAL USE OF VESSEL: "Sport fishing—Any fish caught remain with customers, no fish are sold commercially"

GEOGRAPHIC REGION: "Ohio and Michigan"

The complete application is given in DOT docket MARAD–2013–0096 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all 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).

By Order of the Maritime Administrator.

Dated: August 27, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–21337 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0107; Notice 2]

The Goodyear Tire & Rubber Company, Mootness of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of Petition Mootness.

SUMMARY: The Goodyear Tire & Rubber Company (Goodyear),[1] has determined that certain Goodyear brand tires manufactured between April 8, 2012 and May 12, 2012, do not fully comply with paragraph S5.5(c)&(d) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* Goodyear has filed an appropriate report dated July 20, 2012, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Goodyear submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of Goodyear's petition was published, with a 30-day public comment period, on December 3, 2012, in the **Federal Register** (77 FR 71678). One comment was received from Goodyear stating that after further review it now believes that it filed the petition in error because the described condition is not a

[1] The Goodyear Tire & Rubber Company is a manufacturer of tires and is registered under the laws of the state of Ohio.

noncompliance. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: *http://www.regulations.gov/* . Then follow the online search instructions to locate docket number "NHTSA–2012–0107."

FOR FURTHER INFORMATION CONTACT: For further information on this decision, contact Mr. Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366–5310, facsimile (202) 366–7002.

Tires Involved: Affected are approximately 1,692 Goodyear Wrangler AT/S, size LT 275/65R18 brand tires manufactured between April 8, 2012, and May 12, 2012 at its plant in Gadsden, Alabama.

Summary of Goodyear's Analyses: Goodyear's original analysis contended that there was a noncompliance with 49 CFR 571.139 paragraph S5.5(c)&(d) because the subject tires were labeled "*LR–E/Max Load 3415 lbs Max Pressure 80* psi" instead of Goodyear's intended label "*LR–C/Max Load 2535 lbs Max Pressure 50 psi.*"

Goodyear also asserted that the perceived noncompliance was inconsequential as it relates to motor vehicle safety for the following reasons:

1. The subject tires meet or exceed all applicable FMVSS performance standards for a tire labeled as either load range "E" or "C".

2. All other markings related to tire service (load capacity, corresponding inflation pressure, etc…) are also correct for the mislabeled tires.

3. The subject tires are identical to the intended LR–C tire with the exception of the sidewall labeling, and therefore, do not present a safety concern.

Goodyear has additionally informed NHTSA that it has corrected future production and that all other tire labeling information is correct.

In the comment that Goodyear posted to the petition docket, it contends that after further research that it now believes that a noncompliance does not exist.

In summation, Goodyear now states that its original determination that there is a noncompliance in the subject tires as described in the subject petition was in error and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 was unnecessary.

NHTSA Decision: Inconsequential noncompliance petitions filed under 49 CFR Part 556 are valid only in situations where there is a noncompliance with a Federal motor vehicle safety standard (FMVSS.) In its comment to the petition docket Goodyear explained that it now believes that the described condition is not a noncompliance. Based on Goodyear's description of the subject tire labeling issue NHTSA has determined that, while Goodyear may not have labeled the tires as it originally intended, the tire sidewall labeling issue described in the subject petition is not a noncompliance with FMVSS No. 139 because the tire as labeled conforms to all applicable labeling and performance requirements of FMVSS No. 139. Therefore, this petition is moot and no further action on the petition is warranted.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

Issued on: August 27, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2013–21307 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. EP 670 (Sub-No. 1)]

Notice of Rail Energy Transportation Advisory Committee Meeting

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Rail Energy Transportation Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2 10(a)(2).

DATES: The meeting will be held on Thursday, September 19, 2013, at 9:00 a.m., E.D.T.

ADDRESSES: The meeting will be held in the Hearing Room on the first floor of the Board's headquarters at 395 E Street SW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Michael H. Higgins (202) 245–0284; *Michael.Higgins@stb.dot.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339].

SUPPLEMENTARY INFORMATION: RETAC arose from a proceeding instituted by the Board in *Establishment of a Rail Energy Transportation Advisory Committee,* Docket No. EP 670. RETAC was formed to provide advice and guidance to the Board, and to serve as a forum for discussion of emerging issues regarding the transportation by rail of energy resources, particularly, but not necessarily limited to, coal, ethanol, and other biofuels. The purpose of this meeting is to continue discussions regarding issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. Potential agenda items for this meeting include introduction of new members; a performance measures review; discussion of domestic oil production and transportation; industry segment reports by RETAC members; a presentation on the U.S. Energy Information Agency's annual energy outlook; and a roundtable discussion.

The meeting, which is open to the public, will be conducted in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 2; Federal Advisory Committee Management regulations, 41 CFR part 102–3; RETAC's charter, and Board procedures. Further communications about this meeting may be announced through the Board's Web site at *www.stb.dot.gov.*

Written Comments: Members of the public may submit written comments to RETAC at any time. Comments should be addressed to RETAC, c/o Michael Higgins, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001 or *Michael.Higgins@stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: August 28, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–21380 Filed 8–30–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an

international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Iraq
Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen

Dated: August 26, 2013.

Danielle Rolfes,

International Tax Counsel, (Tax Policy).

[FR Doc. 2013–21359 Filed 8–30–13; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the Department of the Treasury's Federal Advisory Committee on Insurance will convene a meeting on Wednesday, September 18, 2013, in the Cash Room, 1500 Pennsylvania Avenue NW., Washington, DC 20220, from 1:30–4:30 p.m. Eastern Time. The meeting is open to the public, and the site is accessible to individuals with disabilities.

DATES: The meeting will be held on Wednesday, September 18, 2013, from 1:30–4:30 p.m. Eastern Time.

ADDRESSES: The Federal Advisory Committee on Insurance meeting will be held in the Cash Room, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The meeting will be open to the public. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must contact the Federal Insurance Office (Office), at (202) 622–6910, by 5:00 p.m. Eastern Time on Friday, September 13, 2013, to inform the Office that they would like to attend the meeting. Members of the public must provide the Office the following information for entry into the building: first and last name, organization, date of birth, social security number, and country of citizenship.

FOR FURTHER INFORMATION CONTACT: James P. Brown, Senior Policy Advisor to the Federal Insurance Office, Room 2100, Department of the Treasury, 1425 New York Avenue NW., Washington, DC 20220, at (202) 622–6910 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. II, 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the Federal Advisory Committee on Insurance are invited to submit written statements by any of the following methods:

Electronic Statements

- Send electronic comments to *faci@treasury.gov.*

Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, Room 2100, Department of the Treasury, 1425 New York Avenue NW., Washington, DC 20005.

The Department of the Treasury will post all statements on its Web site *http://www.treasury.gov/about/organizational-structure/offices/Pages/Federal-Insurance.aspx* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–0990. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This is a periodic meeting of the Federal Advisory Committee on Insurance. In this meeting, the Federal Advisory Committee on Insurance will discuss perspectives on the Terrorism Risk Insurance Act of 2002,[1] regulatory developments regarding reinsurance captives, international insurance activities, and updates from its subcommittees.

Dated: August 26, 2013.

Rebecca H. Ewing,

Executive Secretary.

[FR Doc. 2013–21362 Filed 8–30–13; 8:45 am]

BILLING CODE 4810–25–P

[1] Pub. L. 107–297, 116 Stat. 2322, 15 U.S.C. 6701 note (as amended by the Terrorism Risk Insurance Extension Act of 2005, P.L. 109–144, 119 Stat. 2660 and the Terrorism Risk Insurance Program Reauthorization Act of 2007, Pub L. 110–160, 121 Stat. 1842).

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Federal Register

Vol. 78, No. 170

Tuesday, September 3, 2013

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At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

Last List August 13, 2013

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—SEPTEMBER 2013

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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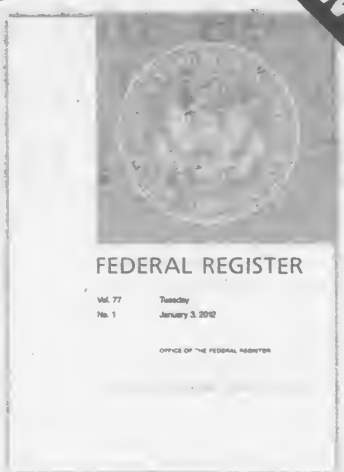

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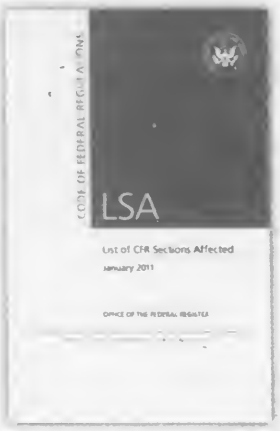

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