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WHEN: Tuesday, September 11, 2012
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
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800 North Capitol Street, NW.
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Adjustment of Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2012 Tariff-Rate Quota Year

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document sets forth the revised appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2012 quota year reflecting the cumulative annual transfers from Appendix 1 to Appendix 2 for certain dairy product import licenses permanently surrendered by licensees or revoked by the Licensing Authority.

DATES: *Effective Date:* August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Abdelsalam El-Farra, Dairy Import Licensing Program, Import Policies and Export Reporting Division, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 1021, Washington, DC 20250–1021; or by telephone at (202) 720–9439; or by email at: *abdelsalam.el-farra@fas.usda.gov.*

SUPPLEMENTARY INFORMATION: The Foreign Agricultural Service, under a delegation of authority from the Secretary of Agriculture, administers the Dairy Tariff-Rate Import Quota Licensing Regulation codified at 7 CFR 6.20–6.37 that provides for the issuance of licenses to import certain dairy articles under tariff-rate quotas (TRQs) as set forth in the Harmonized Tariff Schedule of the United States. These dairy articles may only be entered into the United States at the low-tier tariff by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, issues these licenses and, in conjunction with U.S. Customs and Border Protection, U.S. Department of Homeland Security, monitors their use.

The regulation at 7 CFR 6.34(a) states: "Whenever a historical license (Appendix 1) is not issued to an applicant pursuant to the provisions of § 6.23, is permanently surrendered or is revoked by the Licensing Authority, the amount of such license will be transferred to Appendix 2." Section 6.34(b) provides that the cumulative annual transfers will be published in the **Federal Register.** Accordingly, this document sets forth the revised Appendices for the 2012 tariff-rate quota year.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Imports, Reporting and recordkeeping requirements.

Issued at Washington, DC, the 13th day of July, 2012.

Ronald Lord,

Licensing Authority.

Accordingly, 7 CFR part 6 is amended as follows:

PART 6—IMPORT QUOTAS AND FEES

■ 1. The authority citation for Part 6, Subpart—Dairy Tariff-Rate Import Quota Licensing continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

■ 2. Appendices 1, 2 and 3 to Subpart—Dairy Tariff-Rate Import Quota Licensing are revised to read as follows:

Appendices 1–3 to Subpart—Dairy Tariff-Rate Import Quota Licensing

ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2, NONHISTORICAL LICENSES; AND APPENDIX 3, DESIGNATED IMPORTER LICENSES FOR QUOTA YEAR 2012

[Quantities in kilograms]

Article by additional U.S. Note No. and country of origin	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3		Harmonized tariff schedule
				Tokyo R.	Uruguay R.	
NON–CHEESE ARTICLES						
BUTTER (G–NOTE 6)	4,733,992	2,243,008	6,977,000			6,977,000
EU–25	75,000	21,161	96,161			
New Zealand	110,045	40,548	150,593			
Other Countries	41,970	31,965	73,935			
Any Country	4,506,977	2,149,334	6,656,311			
DRIED SKIM MILK (K–NOTE 7)		5,261,000	5,261,000			5,261,000
Australia		600,076	600,076			
Canada		219,565	219,565			
Any Country		4,441,359	4,441,359			
DRIED WHOLE MILK (H–NOTE 8)	3,175	3,318,125	3,321,300			3,321,300
New Zealand	3,175		3,175			
Any Country		3,318,125	3,318,125			
DRIED BUTTERMILK/WHEY (M–NOTE 12)		224,981	224,981			224,981

ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2, NONHISTORICAL LICENSES; AND APPENDIX 3, DESIGNATED IMPORTER LICENSES FOR QUOTA YEAR 2012—Continued

[Quantities in kilograms]

Article by additional U.S. Note No. and country of origin	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3		Harmonized tariff schedule
				Tokyo R.	Uruguay R.	
Canada	.....	161,161	161,161	.....	.....	.....
New Zealand	.....	63,820	63,820	.....	.....	.....
BUTTER SUBSTITUTES CONTAINING OVER 45 PERCENT OF BUTTERFAT AND/OR BUTTER OIL (SU–NOTE 14)	.....	6,080,500	6,080,500	.....	.....	6,080,500
Any Country	.....	6,080,500	6,080,500	.....	.....	.....
TOTAL: NON–CHEESE ARTICLES	4,737,167	17,127,614	21,864,781	.....	.....	21,864,781
CHEESE ARTICLES						
CHEESE AND SUBSTITUTES FOR CHEESE (EXCEPT: SOFT RIPENED COW'S MILK CHEESE; CHEESE NOT CONTAINING COW'S MILK; CHEESE (EXCEPT COTTAGE CHEESE) CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT; AND, ARTICLES WITHIN THE SCOPE OF OTHER IMPORT QUOTAS PROVIDED FOR IN THIS SUBCHAPTER) (OT–NOTE 16)	21,419,738	10,049,993	31,469,731	9,661,128	7,496,000	48,626,859
Argentina	7,690	0	7,690	92,310	.....	100,000
Australia	535,628	5,542	541,170	758,830	1,750,000	3,050,000
Canada	977,439	163,561	1,141,000	.....	.....	1,141,000
Costa Rica	.....	0	.....	.....	1,550,000	1,550,000
EU–25	15,729,427	7,538,229	23,267,656	1,132,568	3,446,000	27,846,224
Of which Portugal is:	65,838	63,471	129,309	223,691	.....	353,000
Israel	79,696	0	79,696	593,304	.....	673,000
Iceland	294,000	0	294,000	29,000	.....	323,000
New Zealand	2,910,180	1,905,292	4,815,472	6,506,528	.....	11,322,000
Norway	124,982	25,018	150,000	.....	.....	150,000
Switzerland	593,952	77,460	671,412	548,588	500,000	1,720,000
Uruguay	.....	0	.....	.....	250,000	250,000
Other Countries	100,906	100,729	201,635	.....	.....	201,635
Any Country	.....	300,000	300,000	.....	.....	300,000
BLUE–MOLD CHEESE (EXCEPT STILTON PRODUCED IN THE UNITED KINGDOM) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, BLUE–MOLD CHEESE (B–NOTE 17)	2,283,646	197,355	2,481,001	.....	430,000	2,911,001
Argentina	2,000	0	2,000	.....	.....	2,000
EU–25	2,281,646	197,354	2,479,000	.....	350,000	2,829,000
Chile	.....	.....	.....	.....	80,000	80,000
Other Countries	.....	1	1	.....	.....	1
CHEDDAR CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, CHEDDAR CHEESE (C–NOTE 18)	2,795,016	1,488,840	4,283,856	519,033	7,620,000	12,422,889
Australia	902,462	82,037	984,499	215,501	1,250,000	2,450,000
Chile	.....	0	.....	.....	220,000	220,000
EU–25	52,404	210,596	263,000	.....	1,050,000	1,313,000
New Zealand	1,737,605	1,058,863	2,796,468	303,532	5,100,000	8,200,000
Other Countries	102,545	37,344	139,889	.....	.....	139,889
Any Country	.....	100,000	100,000	.....	.....	100,000
AMERICAN–TYPE CHEESE, INCLUDING COLBY, WASHED CURD AND GRANULAR CHEESE (BUT NOT INCLUDING CHEDDAR) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING OR PROCESSED FROM SUCH AMERICAN–TYPE CHEESE (A–NOTE 19)	2,688,157	477,396	3,165,553	357,003	.....	3,522,556
Australia	761,890	119,108	880,998	119,002	.....	1,000,000
EU–25	145,147	208,853	354,000	.....	.....	354,000
New Zealand	1,630,479	131,520	1,761,999	238,001	.....	2,000,000
Other Countries	150,641	17,915	168,556	.....	.....	168,556
EDAM AND GOUDA CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, EDAM AND GOUDA CHEESE (E–NOTE 20)	4,910,073	696,329	5,606,402	.....	1,210,000	6,816,402
Argentina	110,495	14,505	125,000	.....	110,000	235,000

ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2, NONHISTORICAL LICENSES; AND APPENDIX 3, DESIGNATED IMPORTER LICENSES FOR QUOTA YEAR 2012—Continued

[Quantities in kilograms]

Article by additional U.S. Note No. and country of origin	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3		Harmonized tariff schedule
				Tokyo R.	Uruguay R.	
EU–25	4,680,498	608,502	5,289,000	.....	1,100,000	6,389,000
Norway	114,318	52,682	167,000	.....	.....	167,000
Other Countries	4,762	20,640	25,402	.....	.....	25,402
ITALIAN–TYPE CHEESES, MADE FROM COW'S MILK, (ROMANO MADE FROM COW'S MILK, REGGIANO, PARMESAN, PROVOLONE, PROVOLETTI, SBRINZ, AND GOYA–NOT IN ORIGINAL LOAVES) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, SUCH ITALIAN–TYPE CHEESES, WHETHER OR NOT IN ORIGINAL LOAVES (D–NOTE 21)	6,402,630	1,117,917	7,520,547	795,517	5,165,000	13,481,064
Argentina	3,910,738	214,745	4,125,483	367,517	1,890,000	6,383,000
EU–25	2,491,892	890,108	3,382,000	.....	2,025,000	5,407,000
Romania	.....	0	.....	.....	500,000	500,000
Uruguay	.....	0	.....	428,000	750,000	1,178,000
Other Countries	.....	13,064	13,064	.....	.....	13,064
SWISS OR EMMENTHALER CHEESE OTHER THAN WITH EYE FORMATION, GRUYERE–PROCESS CHEESE AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, SUCH CHEESES (GR–NOTE 22)	5,264,929	1,386,385	6,651,314	823,519	380,000	7,854,833
EU–25	3,995,739	1,156,255	5,151,994	393,006	380,000	5,925,000
Switzerland	1,235,692	183,795	1,419,487	430,513	.....	1,850,000
Other Countries	33,498	46,335	79,833	.....	.....	79,833
CHEESE AND SUBSTITUTES FOR CHEESE, CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT (EXCEPT ARTICLES WITHIN THE SCOPE OF OTHER TARIFF–RATE QUOTAS PROVIDED FOR IN THIS SUBCHAPTER), AND MARGARINE CHEESE (LF–NOTE 23)	1,840,852	2,584,056	4,424,918	1,050,000	.....	5,474,908
EU–25	1,840,852	2,584,055	4,424,907	.....	.....	4,424,907
Israel	.....	0	.....	50,000	.....	50,000
New Zealand	.....	0	.....	1,000,000	.....	1,000,000
Other Countries	.....	1	1	.....	.....	1
SWISS OR EMMENTHALER CHEESE WITH EYE FORMATION (SW–NOTE 25)	15,565,737	6,731,594	22,297,331	9,557,945	2,620,000	34,475,276
Argentina	.....	9,115	9,115	70,885	.....	80,000
Australia	209,698	0	209,698	290,302	.....	500,000
Canada	.....	0	.....	70,000	.....	70,000
EU–25	11,155,483	5,321,345	16,476,828	4,003,172	2,420,000	22,900,000
Iceland	149,999	0	149,999	150,001	.....	300,000
Israel	27,000	0	27,000	.....	.....	27,000
Norway	3,187,264	468,046	3,655,310	3,227,690	.....	6,883,000
Switzerland	776,708	907,397	1,684,105	1,745,895	200,000	3,630,000
Other Countries	59,585	25,691	85,276	.....	.....	85,276
TOTAL: CHEESE ARTICLES	63,170,778	24,729,865	87,900,653	22,764,145	24,921,000	135,585,788
TOTAL: CHEESE ARTICLES & NON–CHEESE ARTICLES	67,907,945	41,857,479	109,765,434	22,764,145	24,921,000	157,450,569

[FR Doc. 2012–20943 Filed 8–24–12, 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS–FV–11–0093; FV12–932–1 FR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the California Olive Committee (Committee) for 2012 and subsequent fiscal years from $16.61 to $31.32 per assessable ton of olives handled. The Committee locally administers the marketing order which regulates the handling of olives grown in California. Assessments upon olive handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal year began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* August 28, 2012.

FOR FURTHER INFORMATION CONTACT: Jerry L. Simmons, Marketing Specialist or Kurt J. Kimmel, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA: Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Jerry.Simmons@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov*.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive 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 olives beginning on January 1, 2012, and continue until amended, suspended, or terminated.

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

This rule increases the assessment rate established for the Committee for the 2012 and subsequent fiscal years from $16.61 to $31.32 per ton of assessable olives.

The California olive 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 California olives. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2011 and subsequent fiscal years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on December 15, 2011, and unanimously recommended 2012 expenditures of $1,197,291 and an assessment rate of $31.32 per ton of assessable olives. Olives are an alternate year bearing crop. Olive growers and handlers are accustomed to wide swings in crop yields and assessments from year to year. In comparison, last year's budgeted expenditures were $2,203,909. The assessment rate of $31.32 is $14.71 higher than the rate currently in effect.

The Committee recommended the higher assessment rate because of a substantial decrease in the assessable olive volume for the 2012 fiscal year. The olive volume available for fiscal year 2011 as reported by the California Agricultural Statistics Service (CASS) is 26,944 tons, which compares to 167,000 tons reported for the 2010 fiscal year. The reduced crop is due to olives being an alternate year bearing fruit. The Committee also plans to use available reserve funds to help meet its 2012 expenses.

The major expenditures recommended by the Committee for the 2012 fiscal year include $333,791 for research, $480,000 for marketing activities, $50,000 for inspection equipment development, and $333,500 for administration. Budgeted expenses for these items in 2011 were $1,093,009, $700,000, $75,000 and $335,900, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2011 crop year, and additional pertinent factors. Actual assessable tonnage for the 2012 fiscal year is expected to be lower than the 2011 crop receipts of 167,000 tons reported by the CASS because some olives may be diverted by handlers to uses that are exempt from marketing order requirements. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's expenses (§ 932.40).

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 will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal 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 2012 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by USDA.

Final 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 final regulatory flexibility analysis.

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

There are approximately 1,000 producers of olives in the production area and 2 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

Based upon information from the industry and CASS, the average grower price for 2011 was approximately $798 per ton and total grower production was around 26,944 tons. Based on production, producer prices, and the total number of California olive producers, the average annual producer revenue is less than $750,000. Thus, the majority of olive producers may be classified as small entities. Both of the handlers may be classified as large entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2012 and subsequent fiscal years from $16.61 to $31.32 per ton of assessable olives. The Committee unanimously recommended 2012 expenditures of $1,197,291 and an assessment rate of $31.32 per ton. The higher assessment rate is necessary because assessable olive receipts for the 2012 fiscal year were reported by the CASS to be 26,944 tons, compared to 167,000 tons for the 2011 fiscal year. Actual assessable tonnage for the 2012 fiscal year is expected to be lower because some of the receipts may be diverted by handlers to exempt outlets on which assessments are not paid. Income derived from the $31.32 per ton assessment rate along with funds from the authorized reserve and interest income should be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2012 fiscal year include $333,791 for research, $480,000 for marketing activities, $50,000 for inspection equipment development, and $333,500 for administration. Budgeted expenses for these items in 2011 were $1,093,009, $700,000, $75,000 and $335,900, respectively. The Committee recommended decreases in all major expense categories due to the huge decrease in assessable crop volume as reported by the CASS.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive, Marketing, Inspection, and Research Subcommittees. Alternate expenditure levels were discussed by these groups, based upon the relative value of various projects to the olive industry and the reduced olive production. The assessment rate of $31.32 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives, and additional pertinent factors.

A review of historical information and preliminary information pertaining to the upcoming fiscal year indicates that grower price could range between approximately $1,000 per ton and $1,200 per ton of olives. Therefore, the estimated assessment revenue for the 2012 fiscal year as a percentage of total grower revenue could range between 2.6 and 3.1 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California's olive industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 15, 2011, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

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. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they will be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California olive 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. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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.

A proposed rule concerning this action was published in the **Federal Register** on June 5, 2012 (77 FR 33104). Copies of the proposed rule were also mailed or sent via facsimile to all olive handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending July 5, 2012, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: www.ams.usda.gov/MarketingOrdersSmallBusinessGuide. Any questions about the compliance guide should be sent to Laurel May 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 also found and determined that good cause exists

for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers have already received the 2012 fiscal year olive crop from growers, the fiscal year began January 1, 2012, and the assessment rate applies to all California olives handled during the 2012 fiscal year and subsequent fiscal years. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 932

Olives, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2012, an assessment rate of $31.32 per ton is established for California olives.

Dated: August 21, 2012.

Ruihong Guo,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–21036 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

[Doc. No. AMS–FV–09–0064; FV09–999–1 FR]

Specialty Crops; Import Regulations; New Pistachio Import Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes a minimum quality regulation for lots of pistachios imported into the United States. The regulation specifies maximum aflatoxin tolerance levels as well as mandatory aflatoxin testing and certification requirements. These import quality requirements are the same as or comparable to those in effect for the domestically produced commodity. Under this regulation, aflatoxin levels in imported pistachios may not exceed 15 parts per billion (ppb), as certified by aflatoxin inspection certificates issued by an accredited laboratory. This action is intended to assure consumers that all pistachios offered for sale in the United States meet the same aflatoxin standards, thus promoting high quality product in the market place and fostering consumer satisfaction.

DATES: *Effective Date:* September 26, 2012.

FOR FURTHER INFORMATION CONTACT: Laurel May or Kathleen Finn, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Laurel.May@ams.usda.gov* or *Kathy.Finn@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Laurel May at the above mentioned address.

SUPPLEMENTARY INFORMATION: This final rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act," which provides that whenever the grade, size, quality, or maturity of certain specified commodities, including pistachios, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodities. To ensure that these requirements are met, the Act also authorizes the Department of Agriculture (USDA) to perform inspections and related functions such as commodity sampling, and to issue inspection certificates for such imported commodities.

USDA is issuing this rule in conformance with Executive Order 12866.

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This final rule adds a new § 999.600 under 7 CFR part 999—Specialty Crops; Import Regulations, and establishes quality requirements for maximum aflatoxin tolerance levels and mandatory testing and certification requirements for pistachios offered for importation into the United States. These quality requirements for imported pistachios are the same as or comparable to those established for pistachios grown in California, Arizona, and New Mexico under Marketing Agreement and Order No. 983 (7 CFR part 983) (order), both as amended.

This final rule also revises § 999.500, which specifies safeguard procedures for the importation of walnuts and dates that are exempt from § 8e regulations. This section is revised to include safeguard procedures for the importation of pistachios intended for exempted purposes.

The order prohibits the shipping of pistachios for domestic human consumption that do not meet the quality requirements for aflatoxin levels in the nuts. Such quality requirements specify that aflatoxin levels may not exceed the maximum tolerance of 15 ppb. Pistachios that fail to meet these requirements must be reworked and retested, or disposed of as specified in the order. This regulation was designed to ensure that only high quality pistachios containing low levels of aflatoxin are shipped, thus promoting high quality product in the market place and fostering consumer satisfaction.

The order, which was established for California pistachios in 2004, was recently amended to include the states of Arizona and New Mexico. Pistachios grown in California, Arizona, and New Mexico represent over 99 percent of the U.S. domestic production, and 98 percent of the domestic consumption. Thus, almost all domestically produced pistachios are regulated under Marketing Order No. 983. There is no other Federal marketing order in effect for pistachios produced in the United States.

According to USDA's Foreign Agricultural Service (FAS), Iran is typically the world's largest pistachio producer, followed by the U.S. and Turkey, although Syria's production has increased in recent years. During the three most recent crop years (September through August) for which complete data is available, 2007–08 through 2009–10, the production averages in millions of pounds (inshell basis) for Iran, the U.S., Turkey, and Syria were approximately 386, 350, 120, and 141, respectively.

Historically, the bulk of U.S. pistachio imports have come from Turkey and Iran, although Iranian imports have been prohibited since July 2010. The remainder comes from other countries, including Italy, China, Switzerland, France, Australia, Hong Kong, and Israel. Imported pistachios may be inshell or shelled. According to FAS, the U.S. imported an average of approximately 1.7 million pounds of pistachios (inshell basis) annually

during the three crop years from 2007–08 through 2009–10. Average U.S. consumption of pistachios during that same period was approximately 100 million pounds (inshell basis) annually. Imports, therefore, represent approximately two percent of U.S. pistachio consumption.

Requirements

Definitions

The new regulation includes definitions of terms used in the import regulation. Such terms are the same as or comparable to those defined in the marketing order for domestic pistachios as established at 69 FR 17844 (April 5, 2004) and amended at 74 FR 56532 (November 2, 2009).

Under the new regulation, "pistachio" means the nut of the pistachio tree, *Pistachia vera,* whether inshell or shelled. "Importer" is defined as a person who imports pistachios into the United States. "Aflatoxin" is defined as a mycotoxin that can be found in nuts, dried fruits, and grains. "Aflatoxin inspection certificate" means a certificate issued by a USDA or USDA-accredited laboratory. "USDA laboratory" and "USDA-accredited laboratory" are defined as laboratories authorized to test imported pistachios for aflatoxin content. "Inspector" means any inspector authorized by USDA to draw and prepare pistachio samples for testing. "Lot" means any quantity of pistachios submitted for testing. Other terms useful in the administration of the import regulation are also defined.

Maximum Aflatoxin Tolerance

The presence or absence of aflatoxin is considered a quality characteristic in pistachios [1] because concerns about aflatoxin contamination can impact consumers' perception of the quality of pistachios, and therefore negatively impact demand. According to research provided by the industry, poor quality pistachios impact demand and the potential growth of demand for pistachios.[2] Moreover, any market disturbances related to aflatoxin in pistachios, regardless of the origin of those pistachios, could have a detrimental effect on the pistachio industry.[3]

The new regulation establishes a maximum aflatoxin tolerance level of 15 ppb for lots of pistachios imported into the U.S. for human consumption. As required under section 8e of the Act, this is the same level currently prescribed for domestic pistachios regulated under the order. Establishing a 15 ppb limit for aflatoxin in all pistachios marketed for human consumption in the United States is expected to bolster overall consumer confidence in pistachio quality and strengthen the demand for pistachios. Comparatively, the international Codex Alimentarius Commission's (Codex) maximum aflatoxin tolerance for pistachios is 10 ppb. The domestic pistachio industry believes that 15 ppb is appropriate to ensure the quality of pistachios sold in U.S. markets.[4] Research also supports the 15 ppb tolerance.[5] Additionally, a 15 ppb tolerance for aflatoxin in domestic and imported pistachios is consistent with existing regulations for all domestic and imported peanuts marketed in the United States, for which USDA has established a 15 ppb aflatoxin tolerance.[6]

Aflatoxin Sampling and Testing Procedures

The new regulation provides for aflatoxin sampling procedures based on lot size. Such sampling procedures are the same as or comparable to those established for domestic shipments, and mirror the sampling procedures prescribed for pistachio shipments to the European Union. At the discretion of the importer, pistachio lots arriving at a U.S. port of entry will be warehoused near the port or shipped inland to a pistachio handling facility to await aflatoxin sampling and testing. Importers will be responsible for any transportation or storage fees incurred. Depending on the size of the lot, a specified number of incremental samples will be pulled and combined to form a lot sample. The lot sample will then be divided into smaller test samples, depending upon the size of the lot to be tested. The required weight of lot samples and test samples differs between inshell pistachios and shelled kernels because of the additional weight of the shells for inshell pistachios. The drawing and dividing of all samples must be conducted by or under the supervision of a Federal or Federal-State inspector.

Following the drawing and dividing of samples, each sample must be properly identified and submitted to a USDA or USDA-accredited laboratory for analysis. Test samples will be prepared and analyzed using High Pressure Liquid Chromatography (HPLC) or the immunoaffinity column with direct flourometry method as approved by the Association of Official Analytical Chemists (AOAC). The aflatoxin level will be calculated on a kernel weight basis.

For lots of up to 4,400 lbs, one test sample will be analyzed. If the sample has an aflatoxin level at or below 15 ppb, the lot may be certified as negative for aflatoxin on the aflatoxin inspection certificate, which will be completed by the laboratory. If the aflatoxin level is greater than 15 ppb, the lot fails, and the laboratory will fill out a failed lot notification report for submission to the importer, the U.S. Customs and Border Protection (Customs), and USDA.

For lots of more than 4,400 lbs, two test samples will be prepared. If the first sample has an aflatoxin level at or below 10 ppb, the lot may be certified as negative for aflatoxin on the aflatoxin inspection certificate. Analysis of the other test sample would be unnecessary. If the aflatoxin level of the first test sample is above 20 ppb, the lot fails, and the laboratory will fill out a failed lot notification report for submission to the importer, Customs, and USDA. If the aflatoxin level of the first test sample is higher than 10 ppb and at or below 20 ppb, the importer may elect to test the second sample or rework the lot and resubmit it for testing. If the importer chooses to proceed with testing the second sample, the results from testing both samples will be averaged. If the average results are at or below 15 ppb, the lot may be certified negative for aflatoxin. If the average results are higher than 15 ppb, the lot fails and the accredited lab will submit a failed lot notification report to the importer, Customs, and USDA. If the importer chooses to rework the lot after the first sample is analyzed, the lot will again be subject to sampling and testing as if it were a new lot. If an aflatoxin inspection certificate is issued certifying that a lot is negative for aflatoxin at any stage of the sequential testing (meaning that the lot's aflatoxin content is below the maximum threshold), the certification will state that the lot meets the § 8e import aflatoxin requirements. The certification will expire after 12 months.

[1] Gibbons, Jeff; 2002. Testimony in *Pistochios Grawn in California; Hearing on Proposed Marketing Agreement and Order No. 983.* Pages 326–359.

[2] Sumner, Daniel A; 2002. Testimony in *Pistochios Grown in Colifornio; Hearing on Proposed Morketing Agreement and Order No. 983.* 2002. Pages 698–735 and 747–820.

[3] Reinecke, Karen; 2002. Testimony in *Pistochios Grown in Colifornio; Heoring on Proposed Marketing Agreement ond Order No. 983.* Pages 152–183.

[4] Gibbons, Jeff; 2002. Testimony in *Pistochias Grown in Colifornio: Heoring on Propased Marketing Agreement ond Order Na. 983.* 2002. Pages 326–359.

[5] Eaton, David L.; Jennifer E. Hobden; and Bruce J. Kelman. 2002. *Aflatoxin in Pistochios: Establishing o Regulotory Actian Level in Support of o Proposed Federal Marketing Order.* 11 pages.

[6] 7 CFR part 996—Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States.

Upon notification of any failed lot, the importer will work with Customs to determine the appropriate disposition of the pistachios. Pistachios that fail to meet the aflatoxin requirements will be required to be sold for non-human consumption, exported to another destination with a higher aflatoxin tolerance, or disposed of under the supervision of Customs, and the Federal or Federal-State Inspection Programs could be called upon to verify disposals. Any costs associated with certifying a disposal will be paid by the importer.

Rework Procedures

Although reworking and retesting of a failed lot is not required, importers may opt to take those steps, which would provide them with an opportunity to secure a return for their imported product while maintaining the integrity of the aflatoxin requirements. The alternative would be to dispose of the lot through proper channels as described above. The rework procedures described below are the same as or comparable to those required for domestic pistachios under the order.

Inshell pistachios. Rework procedures for inshell pistachios failing to meet aflatoxin requirements require importers to remove 100 percent of the failing lot from its bulk or retail packaging. These pistachios are required to pass through the sorting stages of the handling process in order to remove those nuts having the characteristics most susceptible to harboring aflatoxin. After reworking the lot, the importer will report the weight of the total accepted and rejected product to Customs and USDA on a rework and failed lot disposition report, and the acceptable portion of the reworked lot will be resampled and tested for aflatoxin. In the case of a reworked lot, the lot sample size and the test sample size will be doubled from that specified in the initial testing. If, after having been reworked, the lot fails aflatoxin testing for a second time, the lot may be shelled and the kernels reworked, sampled, and tested in the manner required for an original lot of pistachio kernels. If the importer decides not to pursue further reworking of the failed lot, those pistachios are prohibited from entering the stream of commerce for domestic human consumption. The lot must be exported, sold for domestic non-human consumption purposes, or disposed of as described above. The importer must report the lot's final disposition to Customs and USDA on a rework and failed lot disposition report.

Shelled pistachios. Rework procedures for pistachio kernels failing to test negative for aflatoxin will also require a reprocessing of 100 percent of the volume of the failing lot. As with inshell pistachios, after reworking, the total weight of the accepted product and the total weight of the rejected product will be reported by the importer to Customs and USDA on the rework and failed lot disposition report. The reworked lot of kernels must be resampled and retested for aflatoxin content as previously described.

Comingling

Importers may comingle certified lots with other certified lots of pistachios. However, to maintain the integrity of certified lots, the comingling of certified and uncertified lots of pistachios will cause the loss of certification for the comingled lots.

Exemptions

Section 983.70 of the marketing order provides that domestic handlers may handle pistachios free of the regulatory and assessment provisions of the order if such pistachios are handled in quantities not exceeding 5,000 dried pounds during any production year. The purpose of this provision is to provide an exemption from the requirements of the order for small quantities of pistachios such as those that are grown for home or personal use. Further, this exemption is applied on a production year basis. Accordingly, under the import regulation, a comparable 5,000-pound annual exemption applies to importers of pistachios for human consumption. Also, substandard pistachios imported for use in non-human consumption outlets are not subject to the proposed aflatoxin regulations.

Compliance

Any importer who violates any provision of the import regulation may be subject to a forfeiture in the amount prescribed in section 608a(5) of the Act (7 U.S.C. 601–674), or, upon conviction, penalties in the amounts prescribed in section 608c(14) of the Act, or to both forfeiture and penalty. False representation to any agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001, which provides for a fine or imprisonment or both.

Safeguards

Safeguard procedures in the form of importer and receiver reporting requirements will be used to ensure that substandard pistachios imported for purposes other than human consumption are used only in authorized outlets exempt from the aflatoxin regulations. The safeguard procedures are comparable to those currently specified for the importation of other exempted commodities. Under the new regulation, importers and receivers of pistachios for other than human consumption purposes are required to complete and submit to USDA an Importer's Exempt Commodity Form (Form FV–6), the generic form used by importers and receivers of other exempted commodities. The information provided on Form FV–6 will be used by USDA to track pistachios marketed for exempted uses.

This rule establishes maximum aflatoxin tolerance levels and mandatory testing and certification requirements for lots of pistachios offered for importation into the United States. The import quality requirements will be implemented in accordance with section 8e of the Act. These provisions are intended to ensure that pistachios imported into the United States for the purposes of domestic human consumption are of a quality comparable to those pistachios regulated under Marketing Order No. 983 and contain no more than 15 ppb of aflatoxin.

Final Regulatory Flexibility Analysis

Pursuant to the 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 final rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

Small agricultural service firms, which include importers and receivers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000.

AMS estimates that there are approximately 64 importers and receivers who handled shipments of pistachios into the United States between 2007 and 2009. About 10 of the 64 firms are also substantially engaged in the marketing of U.S. grown pistachios, and are large firms according

to the SBA definition. Most of the remaining 54 firms import a number of different food products, and most are also likely to be large firms under the SBA definition, even though they generally import only small quantities of pistachios. There are also seven USDA-accredited laboratories in California that perform aflatoxin testing for pistachios. AMS estimates that four of the seven laboratories would be considered small firms according to the SBA definition.

Turkey and Iran have historically been the source of most pistachios imported into the U.S. Turkish pistachios are imported predominantly in the shell, while Iranian pistachios are typically imported shelled. Imported pistachios also come from Italy, China, Switzerland, France, Australia, Hong Kong, and Italy. Most pistachios imported from other nations are also shelled. This import regulation establishes protocols for aflatoxin analysis for both inshell and shelled pistachios.

Section 8e of the Act provides that when certain domestically produced commodities, including pistachios, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, quality, size, and maturity requirements.

This rule establishes minimum quality requirements for lots of imported pistachios by specifying a maximum aflatoxin tolerance level as well as aflatoxin testing and certification requirements. Importers are responsible for arranging for the required transportation, storage, sampling, testing, and certification of such pistachios prior to importation. Sampling is conducted by the Federal or Federal-State inspection services, and aflatoxin testing and certification is performed by USDA or USDA-accredited laboratories.

These import aflatoxin testing and certification requirements are the same as or comparable to those implemented under the order regulating the handling of pistachios grown in California, Arizona, and New Mexico. Pistachios failing to meet the aflatoxin requirements on initial analysis may be reworked and retested, exported to another destination with a higher aflatoxin tolerance, or disposed of in authorized outlets under the supervision of Customs, with assistance from the inspection service if necessary, to verify proper disposal of substandard nuts. Procedures for these activities are also described. Lots of imported pistachios that fail aflatoxin testing may be diverted to certain non-human consumption outlets and are subject to the safeguard provisions of § 999.500. Some reporting and recordkeeping requirements also are included in the pistachio import regulation. These requirements also are the same as or comparable to those implemented under the order.

The cost of testing pistachios for aflatoxin varies, depending on such factors as the location of the port of entry and the size of the lot to be tested. For purposes of estimating an average per-pound testing expense for imported pistachios, this analysis assumes an average lot equal to one container load weighing 16,000 pounds of inshell pistachios arriving at the Port of San Francisco and being tested for aflatoxin by an accredited laboratory in Fresno, California.

In the following example computation of testing costs, there are four elements: (1) A fee (at an hourly rate) charged by the inspection service to draw and prepare the sample, (2) overnight shipping, (3) a fee charged by the laboratory to determine the level of aflatoxin, and (4) the "unit value" of the quantity of pistachios drawn for the sample. The unit value used in this example computation is the average for the last 3 complete marketing years for which import data are available, 2007/08–2009/10. The unit value for the 3-year period ($1.68 per pound) is computed by dividing the average 3-year import value ($2,900,000) by the average import quantity (1,725,000 pounds). Data are from FAS.

The inspection service fee of $74 per hour is multiplied by the estimated time of 2 hours to draw a sample, for a cost of $148. The overnight shipping cost and laboratory fee are estimated at $200 and $100, respectively.

The next step in the example computation is value of pistachios drawn for the sample. Under the new section 996.600, in section d) Sampling, the weight of a lot sample is 16 kilograms (equivalent to 35.3 pounds) for a lot weighing between 11,001 and 22,000 pounds. Multiplying 35.3 pounds times the unit value of imported pistachios ($1.68) yields a value of the tested sample of approximately $59. Assuming that aflatoxin certification of the 16,000-pound lot requires the testing of only one sample, the sum of the four cost elements would be $507, or approximately 3.2 cents per pound (approximately two percent of the unit value of imported pistachios).

It is likely that a pistachio lot arriving at the Port of San Francisco would be transported to an inland handling facility to await sampling and testing and would incur no additional storage costs. However, if the lot is stored at a Customs warehouse near the port, storage fees ranging between $100 and $500 per day could be incurred while the samples are analyzed. Analysis and certification is estimated to require between two to five days. Assuming a three day turnaround for a lot incurring $200 per day storage fees, approximately $600, or 3.75 cents per pound of pistachios could be added to the testing expense described above.

Regarding the impact of this rule on affected entities, this final rule establishes an import regulation for pistachios as provided in section 8e of the Act. The import regulation requires importers to arrange for the testing and certification of all imports of pistachios for human consumption prior to importation. There are some increased costs to importers associated with the testing and certification of imported product. However, it is expected that consumer satisfaction, and therefore demand, will be increased by regulating imports and domestic product uniformly. The additional costs are expected to be offset by the benefits of supplying the U.S. marketplace with only high quality pistachios. As mentioned above, these import requirements are the same as or comparable to those established for U.S. domestic pistachio shipments. The domestic industry recently adopted aflatoxin sampling and testing procedures that align with the Codex Alimentarius Commission's (Codex) sampling plan (75 FR 43045; July 23, 2010). The Codex sampling plan is used by the European Commission as its regulation for the importation of tree nuts into the European Union. Thus, these import requirements are comparable to those widely recognized by international pistachio markets.

Industry information suggests that when aflatoxin levels in imported lots of pistachios exceed the FDA maximum tolerance of 20 ppb, the levels are generally significantly higher than 20 ppb. Very few lots test between 15 ppb and 20 ppb. It is anticipated that most imported lots will test below the proposed 15 ppb tolerance. Thus, establishing a maximum aflatoxin tolerance of 15 ppb for imported pistachios is not expected to have a significant impact on trade.

This import regulation requires importers to report any pistachio lots that fail aflatoxin testing and any lots that are reworked or disposed on two new forms. It is estimated that the total reporting burden associated with these two forms is 11.6 hours for the industry as a whole. The new reporting forms require the minimum amount of information necessary to effectively

carry out the requirements and intent of the Act and to administer section 8e compliance activities. These reports are the same as or comparable to the reports and procedures currently required by other domestic marketing orders and import regulations.

The alternative to this action is to continue to allow pistachios to be imported without having to meet aflatoxin requirements that are the same as or comparable to those established for domestic pistachios. However, the import regulation is necessary to ensure that imported and domestic pistachios for human consumption in the United States are of uniformly high quality. Further, the Act requires that import regulations be issued whenever marketing order regulations are established for pistachios. Therefore, this alternative is not appropriate.

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), forms FV–249 Imported Pistachios—Failed Lot Notification Report and FV–251 Imported Pistachios—Rework and Failed Lot Disposition Report, were approved by OMB and assigned OMB Number 0581–0278 on November 23, 2011. Following the publication of this final rule, AMS will submit a request to OMB to merge these two forms with the forms currently approved under OMB No. 0581–0215, Pistachios Grown in California, Arizona, and New Mexico.

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.

Additionally, except for the applicable domestic regulations, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. Reports and forms required under the pistachio import regulation will be reviewed periodically to reduce information requirements and duplication by industry and public sector agencies.

A proposed rule regarding this action was published in the **Federal Register** on October 21, 2011 (76 FR 65411). Copies of the rule were mailed or sent via facsimile to all known pistachio importers and to the embassies of countries from whom pistachios are currently imported in significant volumes. The rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period ending December 20, 2011, was provided to allow interested persons to respond to the proposal.

Four comments were received during the comment period in response to the proposal. All four commenters were supportive of the proposed regulation. One commenter, representing the domestic pistachio industry, noted that the proposed provisions for reworking and retesting imported lots that test positive for aflatoxin provided a safeguard against testing anomalies so that shipments are not unfairly rejected while ensuring a flow of high quality pistachios into the stream of commerce. Two private citizen commenters urged USDA to facilitate the timely and uniform sampling and testing of imported lots upon entry to optimize product freshness and marketability. Import regulations are applied uniformly at all U.S. ports of entry, and Federal and Federal-state inspection protocols are consistent throughout the U.S. Similarly, all laboratories authorized to participate in aflatoxin testing for imported pistachios have been approved by USDA and conform to uniform analytical standards and practices. The sampling and testing of imported lots will be handled with the same timeliness and integrity applied to domestic lots.

The proposed regulation named a commercially available testing kit as one option for aflatoxin analysis in imported pistachios. One commenter suggested that any AOAC-approved method, rather than a particular product, be specified in the regulation to encourage the ongoing development of improved technology and ensure its availability to the industry. USDA does not intend to endorse the use of specific commercial products. However, as mentioned above, to ensure analytical testing uniformity and integrity, USDA has currently approved only two methods for aflatoxin testing in domestic and imported pistachios. Both are included in the import regulation. Accordingly, § 999.600(e)(1) of the import regulation has been modified by replacing the name of the specific testing kit with a generic description of the approved method. USDA would consider further modifications to the regulation as new analytical methods are tested and approved.

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

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

After consideration of all relevant matter presented, including the information provided by the industry 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.

List of Subjects in 7 CFR Part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth above, 7 CFR part 999 is amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

■ 1. The authority citation for 7 CFR Part 999 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Amend § 999.500 by revising the section heading and paragraphs (a) and (d) to read as follows:

§ 999.500 Safeguard procedures for walnuts, certain dates, and pistachios exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports or receives any of the commodities listed in paragraphs (a)(1) through (a)(3) of this section shall file an "Importer's Exempt Commodity Form" (FV–6) with the Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, and shall provide a printed copy of the completed Form FV–6 to the U.S. Customs and Border Protection Regional Director or District Director, as applicable, at the port at which the customs entry is filed. A printed copy shall accompany the lot to the exempt outlet specified on the form. Any lot of any commodity offered for inspection or aflatoxin testing and, all or a portion thereof, subsequently imported as exempt under this provision shall also be reported on an "Importer's Exempt Commodity Form." Such form, accompanied by a copy of the applicable inspection certificate, shall be provided to the Marketing Order and Agreement Division. The applicable commodities are:

(1) Dates which are donated to needy persons, prisoners or Native Americans on reservations;

(2) Walnuts which are: Green walnuts (so immature that they cannot be used for drying and sale as dried walnuts); walnuts used in non-competitive outlets such as use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and

diversion to animal feed or oil manufacture; or

(3) Substandard pistachios which are for non-human consumption purposes.

* * * * *

(d) All FV–6 forms and other correspondence regarding entry of 8e commodities must be submitted online, mailed or faxed to the Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone (202) 720–4607; or FAX (202) 720–5698. FV–6 forms submitted by FAX must be followed by a mailed, original copy of the FV–6.

■ 3. Add a new § 999.600 to read as follows:

§ 999.600 Regulation governing the importation of pistachios.

(a) *Definitions.* As used in this part:

(1) *Aflatoxin* is one of a group of mycotoxins produced by the molds *Aspergillus flavus* and *Aspergillus parasiticus*. Aflatoxins are naturally occurring compounds produced by molds, which can be spread in improperly processed and stored nuts, dried fruits, and grains.

(2) *Aflatoxin inspection certificate* means a certificate issued by a USDA or USDA-accredited laboratory.

(3) *Certified lots of pistachios* are those for which aflatoxin inspection certificates have been issued.

(4) *Customs* means the U.S. Customs and Border Protection.

(5) *Importation of pistachios* means the release of pistachios from the custody of U.S. Customs and Border Protection.

(6) *Importer* means a person who engages in the importation of pistachios into the United States.

(7) *Inshell pistachios* means pistachios that have shells that have not been removed.

(8) *Inspection Service* means the Federal Inspection Service, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, or the Federal-State Inspection Programs.

(9) *Inspector* means any inspector authorized by USDA to draw and prepare pistachio samples.

(10) *Lot* means any quantity of pistachios that is submitted for testing purposes under this part.

(11) *Person* means an individual, partnership, limited-liability corporation, corporation, trust, association, or any other business unit.

(12) *Pistachio* means the nut of the pistachio tree, *Pistachia vera,* whether inshell or shelled.

(13) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his/her stead.

(14) *Shelled pistachios* means pistachio kernels, or portions of kernels, after the pistachio shells have been removed.

(15) *Substandard pistachios* means pistachios, inshell or shelled, that do not comply with the aflatoxin regulations of this section.

(16) *USDA* means the United States Department of Agriculture, including any officer, employee, service, program, or branch of the Department of Agriculture, or any other person acting as the Secretary's agent or representative in connection with any provisions of this section.

(17) *USDA laboratory* means laboratories of the Science and Technology Programs, Agricultural Marketing Service, USDA, that perform chemical analyses of pistachios for aflatoxin content.

(18) *USDA-accredited laboratory* means a laboratory that has been approved or accredited by the U.S. Department of Agriculture to perform chemical analyses of pistachios for aflatoxin content.

(b) *Importation Requirements.* The importation of any lot of pistachios for human consumption is prohibited unless it meets the requirements contained in this section, which are determined to be the same as or comparable to those imposed upon domestic pistachios handled pursuant to Order No. 983, as amended (part 983 of this chapter).

(c) *Maximum aflatoxin tolerance.* No importer shall ship for domestic human consumption lots of pistachios that exceed an aflatoxin level of 15 ppb. Compliance with the aflatoxin requirements of this section shall be determined upon the basis of sampling by a USDA-authorized inspector and testing by a USDA or USDA-accredited laboratory. All shipments must be covered by an aflatoxin inspection certificate issued by the laboratory. Testing and certification must be completed prior to the importation of pistachios.

(d) *Sampling.*

(1) Prior to, or upon, arrival of a pistachio lot at a port of entry, the importer shall provide a copy of the Customs entry documentation for the pistachio lot or lots to the Inspection Service office that will draw and prepare samples of the pistachio shipment. More than one lot may be listed on one entry document. The documentation shall include: The Customs entry number; the container number(s) or other identification of the lot(s); the weight of the pistachios in each lot being imported, the location where the lot will be made available for sampling; and a contact name or telephone number at the testing location. The Inspection Service shall sign, stamp, and return the entry document to the importer. The importer shall provide a copy of the relevant entry documentation and such other identifying information as may be requested for each pistachio lot to the inspector at the time samples are drawn and prepared.

(2) All sampling for aflatoxin testing shall be performed by USDA-authorized inspectors in accordance with USDA rules and regulations governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR part 51). The cost of each such sampling and related certification shall be borne by the applicant. Whenever pistachios are offered for sampling and testing, the applicant shall furnish any labor and pay any costs incurred for storing, moving, and opening containers as may be necessary for proper sampling and testing. The applicant should make advance arrangements with the Inspection Service to avoid delay in scheduling sampling. Importers may make arrangements for required sampling by contacting the Inspection Service office closest to where the pistachios will be made available for sampling. For questions regarding inspection services, a list of Federal or Federal-State Inspection Program offices, or for further assistance, importers may contact: Fresh Products Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Room 1536–S, Washington, DC, 20250; Telephone: (202) 720–5870; Fax: (202) 720–0393.

(3) Lot samples shall be drawn from each lot of pistachios designated for aflatoxin testing, and individual test samples shall be prepared by, or under the supervision of, an inspector. Each sample shall be drawn and prepared in accordance with the sample size requirements outlined in Tables 1 and 2 below. The gross weight of the inshell lot and test samples for aflatoxin testing and the minimum number of incremental samples required are shown in Table 1. The gross weight of the kernel lot and test samples for aflatoxin testing and the minimum number of incremental samples required is shown in Table 2. If more than one test sample is necessary, the test samples shall be designated by the inspector as Test Sample #1 and Test Sample #2. Each sample shall be placed in a suitable container, with the lot number clearly

identified, and the importer shall submit it, along with a copy of the customs entry documentation, to a USDA or USDA-accredited laboratory. The importer shall assume all costs for shipping samples to the laboratory.

TABLE 1—INSHELL PISTACHIO LOT SAMPLING INCREMENTS FOR AFLATOXIN CERTIFICATION

Lot weight (lbs.)	Minimum number of incremental samples for the lot sample	Total weight of lot sample (kilograms)	Weight of test sample (kilograms)
220 or less	10	2.0	2.0
221–440	15	3.0	3.0
441–1,100	20	4.0	4.0
1,101–2,200	30	6.0	6.0
2,201–4,400	40	8.0	8.0
4,401–11,000	60	12.0	6.0
11,001–22,000	80	16.0	8.0
22,001–150,000	100	20.0	10.0

TABLE 2—SHELLED PISTACHIO KERNEL LOT SAMPLING INCREMENTS FOR AFLATOXIN CERTIFICATION

Lot weight (lbs.)	Minimum number of incremental samples for the lot sample	Total weight of lot sample (kilograms)	Weight of test sample (kilograms)
220 or less	10	1.0	1.0
221–440	15	1.5	1.5
441–1,100	20	2.0	2.0
1,101–2,200	30	3.0	3.0
2,201–4,400	40	4.0	4.0
4,401–11,000	60	6.0	3.0
11,001–22,000	80	8.0	4.0
22,001–150,000	100	10.0	5.0

(e) *Aflatoxin testing.* Importers may make arrangements for required chemical analysis for aflatoxin content at the nearest USDA or USDA-accredited laboratory. For further information concerning chemical analysis and a list of laboratories authorized to conduct such analysis contact: Science and Technology Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0270, Washington, DC 20250–0270; Telephone: (202) 720–5231; Fax: (202) 720–6496.

(1) Aflatoxin test samples shall be received and logged by a USDA or USDA-accredited laboratory, and each test sample shall be prepared and analyzed using High Pressure Liquid Chromatography (HPLC) or the AOAC-approved immunoaffinity column with direct fluorometry method. The aflatoxin level shall be calculated on a kernel weight basis.

(2) Lots that require a single test sample will be certified as "negative" on the aflatoxin inspection certificate if the sample has an aflatoxin level at or below 15 ppb. If the aflatoxin level is above 15 ppb, the lot fails and the laboratory shall fill out an *Imported Pistachios—Failed Lot Notification* report (Form FV–249) as described in paragraph (h)(1) of this section.

(3) Lots that require two test samples will be certified as "negative" on the aflatoxin inspection certificate if Test Sample #1 has an aflatoxin level at or below 10 ppb. If the aflatoxin level of Test Sample #1 is above 20 ppb, the lot fails and the laboratory shall fill out an *Imported Pistachios—Failed Lot Notification* report (Form FV–249). If the aflatoxin level of Test Sample #1 is above 10 ppb and at or below 20 ppb, the laboratory may, at the importer's discretion, analyze Test Sample #2 and average the test results of Test Samples #1 and #2. Alternately, the importer may elect to withdraw the lot from testing, rework the lot, and resubmit it for testing after reworking. If the importer directs the laboratory to proceed with the analysis of Test Sample #2, a lot will be certified as negative to aflatoxin and the laboratory shall issue an aflatoxin inspection certificate if the averaged result of Test Samples #1 and #2 is at or below 15 ppb. If the average aflatoxin level of Test Samples #1 and #2 is above 15 ppb, the lot fails and the laboratory shall fill out an *Imported Pistachios—Failed Lot Notification* report (Form FV–249).

(4) If an importer does not elect to use Test Sample #2 for certification purposes, the importer may request that the laboratory return the sample to the importer.

(f) *Certification.* Each lot of pistachios sampled and tested in accordance with paragraphs (d) and (e) of this section shall be covered by an aflatoxin inspection certificate completed by the laboratory. The certification expires for the lot or remainder of the lot after 12 months. Each such certificate shall set forth the following:

(1) The date and place of sampling and testing.

(2) The name of the applicant.

(3) The Customs entry number pertaining to the lot or shipment covered by the certificate.

(4) The quantity and identifying marks of the lot tested.

(5) The aflatoxin level of the lot, stated on a kernel weight basis.

(6) The statement, if applicable: "Meets U.S. import requirements under section 8e of the AMA Act of 1937."

(7) If the lot fails to meet the import requirements, a statement to that effect and the reasons therefore.

(g) *Failed lots/rework procedure.* Any lot or portion thereof that fails to meet the import requirements prior to or after reconditioning may be exported, sold for non-human consumption, or disposed of under the supervision of Customs and, if necessary for verification purposes, the Federal or Federal-State Inspection Programs, with

the costs of certifying the disposal of such lot paid by the importer.

(1) *Inshell rework procedure for aflatoxin.* If inshell rework is selected as a remedy to meet the aflatoxin requirements of this part, then 100 percent of the product within that lot shall be removed from the bulk and/or retail packaging containers and reworked to remove the portion of the lot that caused the failure. Reworking shall consist of mechanical, electronic, or manual procedures normally used in the handling of pistachios. After the rework procedure has been completed, the total weight of the accepted product and the total weight of the rejected product shall be reported by the importer to Customs and USDA on an *Imported Pistachios—Rework and Failed Lot Disposition* report (Form FV–251) as described in paragraph (h)(2) of this section. The reworked lot shall be sampled and tested for aflatoxin as specified in paragraphs (d) and (e) of this section, except that the lot sample size and the test sample size shall be doubled. If, after the lot has been reworked and tested, it fails the aflatoxin test for a second time, the lot may be shelled and the kernels reworked, sampled, and tested in the manner specified for an original lot of kernels, or the failed lot may be exported, used for non-human consumption, or otherwise disposed of.

(2) *Kernel rework procedure for aflatoxin.* If pistachio kernel rework is selected as a remedy to meet the aflatoxin requirements of this part, then 100 percent of the product within that lot shall be removed from the bulk and/or retail packaging containers and reworked to remove the portion of the lot that caused the failure. Reworking shall consist of mechanical, electronic, or manual procedures normally used in the handling of pistachios. After the rework procedure has been completed the total weight of the accepted product and the total weight of the rejected product shall be reported to Customs and USDA on an *Imported Pistachios—Rework and Failed Lot Disposition* report (Form FV–251). The reworked lot shall be sampled and tested for aflatoxin as specified in paragraphs (d) and (e) of this section.

(3) *Failed lot reporting.* If a lot fails to meet the aflatoxin requirements of this part, the testing laboratory shall complete an *Imported Pistachios—Failed Lot Notification* report (Form FV–249) as described in paragraph (h)(1) of this section, and shall submit it to Customs, the importer, and USDA within 10 working days of the test failure. This form must be completed and submitted each time a lot fails aflatoxin testing.

(h) *Reports and Recordkeeping.*

(1) *Form FV–249 Imported Pistachios—Failed Lot Notification.* Each USDA or USDA-accredited laboratory shall notify the importer; Customs; and the Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA; of all lots that fail to meet the maximum aflatoxin requirements by completing this form and submitting it within 10 days of failed aflatoxin testing.

(2) *Form FV–251 Imported Pistachios—Rework and Failed Lot Disposition.* Each importer who reworks a failing lot of pistachios shall complete this report and shall forward it to Customs and the Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, no later than 10 days after the rework is completed. If rework is not selected as a remedy, the importer shall complete and submit this form within 10 days of alternate disposition of the lot.

(i) *Exemptions.* Any importer may import pistachios free of the requirements of this section if such importer imports a quantity not exceeding a total of 5,000 dried pounds between September 1 and August 31 of each year. Substandard pistachios imported for use in non-human consumption outlets shall be subject to the safeguard provisions contained in § 999.500.

(j) *Reconditioning prior to importation.* Nothing contained in this section shall be deemed to preclude reconditioning pistachios prior to importation, in order that such pistachios may be made eligible to meet the applicable aflatoxin regulations prescribed in paragraphs (c) through (f) of this section.

(k) *Comingling.* Certified lots of pistachios may be comingled with other certified lots, but the comingling of certified lots and uncertified lots shall cause the loss of certification for the comingled lots.

(l) *Retesting.* Whenever USDA has reason to believe that imported pistachios may have been damaged or deteriorated while in storage, USDA may reject the then effective inspection certificate and may require the owner of the pistachios to have them retested to establish whether or not such pistachios may be shipped for human consumption.

(m) *Compliance.* Any person who violates any provision of this section shall be subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of the said Act, or to both such forfeiture and penalty. False representation to any agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001, which provides for a fine or imprisonments or both.

(n) *Other import requirements.* The provisions of this section do not supersede any restrictions or prohibitions on pistachios under the Federal Plant Quarantine Act of 1912, or any other applicable laws or regulations of city, county, State, or Federal Agencies including the Federal Food, Drug and Cosmetic Act.

Dated: August 21, 2012.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2012–20974 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1033

[Doc. No. AO–11–0333; AMS–DA–11–0067; DA–11–04]

Milk in the Mideast Marketing Area; Order Amending the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Pool Plant provisions of the Mideast Federal milk marketing order regulating distributing plants physically located within the marketing area, with a Class I utilization of at least 30 percent and with combined route disposition and transfers of at least 50 percent distributed into Federal milk marketing areas, as Pool Distributing Plants under the terms of the order. More than the required number of producers for the Mideast marketing area approved the issuance of the final order as amended.

FOR FURTHER INFORMATION CONTACT: Erin C. Taylor, Order Formulation and Enforcement Division, USDA/AMS/Dairy Programs, STOP 0231–Room 2963, 1400 Independence Ave. SW., Washington, DC 20250–0231, (202) 720–7183, email address: *erin.taylor@ams.usda.gov.*

DATES: *Effective Date:* October 1, 2012.

SUPPLEMENTARY INFORMATION: This final rule more adequately defines the plants, and the producer milk associated with those plants, that serve the fluid needs

of the Mideast market and therefore which producers should share in the additional revenue arising from fluid milk sales.

Accordingly, this final rule adopts proposed amendments detailed in the final decision (77 FR 38536).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The amendment proposed herein has been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (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 request modification or exemption from such order by filing 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 the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the U.S. Department of Agriculture (USDA or Department) 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 its principal place of business, has jurisdiction in equity to review USDA's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the $750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farms. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

During October 2011, the time of the hearing, there were 6,651 dairy farms pooled on the Mideast order. Of these, approximately 6,169 dairy farms (or 92.8 percent) were considered small businesses. During the same month, there were 51 handler operations associated with the Mideast order (25 fully regulated handlers, 8 partially regulated handlers, 2 producer-handlers, and 16 exempt handlers). Of these, approximately 38 handlers (or 74.5 percent) were considered small businesses.

The Pool Plant provisions of the Mideast order define which plants have an association with serving the fluid milk market demand of the Mideast marketing area, and therefore determine the producers and the producer milk that can participate in the marketwide pool as well as share in the Class I market revenues. The proposed amendment adopted in this final rule will fully regulate some handlers that currently fall under partial regulation. As a result, these handlers will be required to account to the Mideast order marketwide pool. Consequently, all producers whose milk is pooled and priced under the terms of the Mideast order will benefit from the additional revenue contributed to the marketwide pool by the newly-regulated distributing plant. The Department anticipates that while these additional monies will be shared with all producers serving the market, the amendment will not have a significant economic impact on a substantial number of small entities.

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.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). It was determined that the amendment will have no impact on reporting, recordkeeping, or other compliance requirements because it will remain identical to the current requirements. No new forms are proposed and no additional reporting requirements are necessary.

This notice does not require additional information collection that will necessitate clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the approved forms are routinely used in most business transactions. The forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

Prior Documents in This Proceeding

Notice of Hearing: Issued September 2, 2011; published September 8, 2011 (76 FR 55608).

Recommended Decision: Issued February 24, 2012; published February 29, 2012 (77 FR 12216).

Final Decision: Issued June 22, 2012; published June 28, 2012 (77 FR 38536).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings Upon the Basis of the Hearing Record

A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Mideast marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Additional Findings

The amendment to this order is known to handlers. The final decision containing the proposed amendment to this order was issued on June 22, 2012, and published in the **Federal Register** on June 28, 2012 (77 FR 38536).

The changes that result from this amendment will not require extensive preparation or substantial alteration in the method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this amendment effective following October 1, 2012. (Section 553(d), Administrative Procedures Act, 5 U.S.C. 551–559.)

(c) Determinations

It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the AMAA) of more than 50 percent of the milk, which is marketed within the specified marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the AMAA;

(2) The issuance of this order amending the Mideast order is the only practical means pursuant to the declared policy of the AMAA of advancing the interests of producers as defined in the orders as hereby amended; and

(3) The issuance of this order amending the Mideast order is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the respective marketing areas.

List of Subjects in 7 CFR Part 1033

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Mideast marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

For reasons set forth in the preamble, 7 CFR part 1033 is amended as follows:

PART 1033—MILK IN THE MIDEAST MARKETING AREA

■ 1. The authority citation for 7 CFR part 1033 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

■ 2. Amend § 1033.7 by revising paragraph (a) to read as follows:

§ 1033.7 Pool Plant.

* * * * *

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or § __.7(b) of any other Federal milk order, from which during the month 30 percent or more of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area. Plants located within the marketing area that meet the 30 percent route disposition standard contained above, and have combined route disposition and transfers of at least 50 percent into Federal order marketing areas will be regulated as a distributing plant in this order.

* * * * *

Dated: August 21, 2012.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2012–20973 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0945; Directorate Identifier 2011–NE–18–AD; Amendment 39–17161; AD 2012–16–14]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Honeywell International Inc. TFE731–20R, –20AR, –20BR, –40, –40AR, –40R, –50R, and –60 turbofan engines. This AD was prompted by a report of a quality escape of about 8,000 2nd stage low-pressure turbine (LPT2) rotor blades, manufactured by Honeywell Chihuahua Manufacturing Operation since 2009. This AD requires removing and inspecting certain LPT2 rotor blades. We are issuing this AD to correct an unsafe condition caused by these blades installed on these engines.

DATES: This AD is effective October 1, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of October 1, 2012.

ADDRESSES: For service information identified in this AD, contact Honeywell International Inc., 111 S. 34th Street, Phoenix, AZ 85034–2802; Web site: *http://portal.honeywell.com;* or call Honeywell toll free at phone: 800–601–3099 (U.S./Canada) or 602–365–3099 (International Direct).

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.

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 regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@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. That NPRM published in the **Federal Register** on January 9, 2012 (77 FR 1043). That NPRM proposed to require removing and inspecting certain LPT2 rotor blades.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 3,000 engines installed on airplanes of U.S. registry. We also estimate that it will take about 1 work-hour per engine to perform the record review, and that the average labor rate is $85 per work-hour. For an estimated 500 engines with discrepant blades, blade rework cost was estimated at $2,380 per engine with a replacement parts cost about $1,100 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $1,430,100.

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

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, 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 adding the following new airworthiness directive (AD):

2012–16–14 Honeywell International Inc. (Formerly Allied Signal Inc. and Garrett Turbine Engine Company): Amendment 39–17161; Docket No. FAA–2011–0945; Directorate Identifier 2011–NE–18–AD.

(a) Effective Date

This AD is effective October 1, 2012.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to Honeywell International Inc. TFE731–20R, –20AR, –20BR, –40, –40AR, –40R, –50R, and –60 turbofan engines:

(i) With an engine model number and serial number (S/N) listed in Table 4 of Honeywell Service Bulletin (SB) TFE731–72–5221, Revision 0, dated November 11, 2010, or

(ii) With 2nd stage low-pressure turbine (LPT2) rotor assembly part numbers (P/Ns) 3060608–2, 3060608–3, or 3060608–5 that had any LPT2 rotor blades P/N 3075424–2 replaced between March 2009 and September 2010, inclusive, or that had any LPT2 rotor blades P/N 3075424–3 replaced between July 2010 and September 2010, inclusive.

(d) Unsafe Condition

This AD was prompted by a report of a quality escape of about 8,000 LPT2 rotor blades, manufactured by Honeywell Chihuahua Manufacturing Operation since 2009. During LPT rotor acceleration, these blades may contact and damage the 3rd stage LPT (LPT3) nozzle seal carrier that may subsequently fatigue and contact the adjacent rotor and damage the rotor. Also, these blades could deform the blade retainers, which could lead to blade movement that may cause rotor damage. We are issuing this AD to correct the unsafe condition caused by these blades installed on these engines.

(e) Compliance

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

(f) Remove LPT2 Rotor Blades

(1) At the next major periodic inspection, not to exceed 3,000 hours time-since-new, or within 5 years after the effective date of this AD, or at the next access, whichever occurs first, do the following using Section 3.0, Accomplishment Instructions, of Honeywell SB TFE731–72–5221, Revision 0, dated November 11, 2010:

(i) Remove any suspect LPT2 rotor blades from service.

(ii) Inspect suspect LPT2 rotor blades.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Definition

For purposes of this AD, next access is defined as when the LPT module is disassembled.

(i) Related Information

For more information about this AD, contact Joseph Costa, Aerospace Engineer, Los Angles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

(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) Honeywell SB TFE731–72–5221, Revision 0, dated November 11, 2010.

(ii) Reserved.

(3) For Honeywell International Inc. service information identified in this AD, contact Honeywell International Inc., 111 S. 34th Street, Phoenix, AZ 85034–2802; Web site: *http://portal.honeywell.com;* or call Honeywell toll free at phone: 800–601–3099 (U.S./Canada) or 602–365–3099 (International Direct).

(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 6, 2012.

Mark C. Fulmer,

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

[FR Doc. 2012–21008 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN 3084–AA98

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the "Commission" or "FTC") is amending its Telemarketing Sales Rule ("TSR") by updating the fees charged to entities accessing the National Do Not Call Registry (the "Registry") as required by the Do-Not-Call Registry Fee Extension Act of 2007.

DATES: *Effective Date:* The revised fees will become effective October 1, 2012.

ADDRESSES: Requests for copies of this document should be sent to: Public Reference Branch, Federal Trade Commission, Room 130, 600 Pennsylvania Avenue NW., Washington, DC 20580. Copies of this document are also available on the Internet at the Commission's Web site: *http://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Ami Joy Dziekan, (202) 326–2648, BCP, Federal Trade Commission, 600 Pennsylvania Avenue NW., Room H–246, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To comply with the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. 110–188, 122 Stat. 635) ("Act"), the Commission is amending the TSR by updating the fees entities are charged for accessing the Registry as follows: the revised rule increases the annual fee for access to the Registry for each area code of data from $56 to $58 per area code; increases the fee per area code of data during the second six months of an entity's annual subscription period from $28 to $29; and increases the maximum amount that will be charged to any single entity for accessing area codes of data from $15,503 to $15,962.

These increases are in accordance with the Act, which specifies that beginning after fiscal year 2009, the dollar amounts charged shall be increased by an amount equal to the amounts specified in the Act, multiplied by the percentage (if any) by which the average of the monthly consumer price index (for all urban consumers published by the Department of Labor) ("CPI") for the most recently ended 12-month period ending on June 30 exceeds the CPI for the 12-month period ending June 30, 2008. The Act also states that any increase shall be rounded to the nearest dollar and that there shall be no increase in the dollar amounts if the change in the CPI is less than one percent. For fiscal year 2009, the Act specified that the original annual fee for access to the Registry for each area code of data was $54 per area code, or $27 per area code of data during the second six months of an entity's annual subscription period, and that the maximum amount that would be charged to any single entity for accessing area codes of data would be $14,850.

The determination whether a fee change is required and the amount of the fee change involves a two-step process. First, to determine whether a fee change is required, we measure the change in the CPI from the time of the previous increase in fees. There was an increase in the fees for fiscal year 2012. Accordingly, we calculated the change in the CPI since last year, and the increase was 2.93 percent. Because this change is over the one percent threshold, the fees will change for fiscal year 2013.

Second, to determine how much the fees should increase this fiscal year, we use the calculation specified by the Act set forth above, the percentage change in the baseline CPI applied to the original fees for fiscal year 2009. The average value of the CPI for July 1, 2007 to June 30, 2008 was 211.702; the average value for July 1, 2011 to June 30, 2012 was 227.565, an increase of 7.49 percent. Applying the 7.49 percent increase to the base amount from fiscal year 2009, leads to an increase from $56 to $58 in the fee from last year for access to a single area code of data for a full year for fiscal year 2013. The actual amount is $58.04, but when rounded, pursuant to the Act, the amount is $58. The fee for accessing an additional area code for a half year increases to $29.02 (rounded to $29). The maximum amount charged increases to $15,962.26 (rounded to $15,962).

Administrative Procedure Act; Regulatory Flexibility Act; Paperwork Reduction Act. The revisions to the Fee Rule are technical in nature and merely incorporate statutory changes to the TSR. These statutory changes have been adopted without change or interpretation, making public comment unnecessary. Therefore, the Commission has determined that the notice and comment requirements of the Administrative Procedure Act do not apply. *See* 5 U.S.C. 553(b). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603, 604.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, the Office of Management and Budget ("OMB") approved the information collection requirements in the Amended TSR and assigned the following existing OMB Control Number: 3084–0097. The amendments outlined in this Final Rule pertain only to the fee provision (§ 310.8) of the Amended TSR and will not establish or alter any record keeping, reporting, or third-party disclosure requirements elsewhere in the Amended TSR.

List of Subjects in 16 CFR Part 310

Advertising, Consumer protection, Reporting and recordkeeping requirements, Telephone, Trade practices.

Accordingly, the Federal Trade Commission amends part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108; 15 U.S.C. 6151–6155.

■ 2. In § 310.8, revise paragraphs (c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is $58 for each area code of data accessed, up to a maximum of $15,962; *provided,* however, that there shall be no charge to any person for accessing the first five area codes of data, and *provided further,* that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing area codes of data in the National Do Not Call Registry if the person is permitted to access, but is not required to access, the National Do Not Call Registry under this Rule, 47 CFR 64.1200, or any other Federal regulation or law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to

access the registry among various clients of that telemarketer or service provider.

(d) Each person who pays, either directly or through another person, the annual fee set forth in § 310.8(c), each person excepted under § 310.8(c) from paying the annual fee, and each person excepted from paying an annual fee under § 310.4(b)(1)(iii)(B), will be provided a unique account number that will allow that person to access the registry data for the selected area codes at any time for the twelve month period beginning on the first day of the month in which the person paid the fee ("the annual period"). To obtain access to additional area codes of data during the first six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $58 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $29 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–21041 Filed 8–24–12; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 0

[AG Order No. 3342–2012]

Authorization To Seize Property Involved in Drug Offenses for Administrative Forfeiture (2012R–9P)

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending its regulations to allow the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to exercise, for a one-year period following the effective date of this rule, the authority to seize and administratively forfeit property involved in controlled substance offenses. Many years of experience have demonstrated that forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that would continue to function after the conviction and incarceration of individual offenders. Moreover, administrative forfeiture permits the expedient and effective use of this crucial law enforcement tool.

DATES: This rule is effective February 25, 2013.

FOR FURTHER INFORMATION CONTACT: Denise Brown, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226, telephone: (202) 648–7105.

SUPPLEMENTARY INFORMATION:

Background

The Attorney General has delegated to ATF the authority to investigate, seize, and forfeit property involved in a violation or attempted violation within its investigative jurisdiction. *See* 28 CFR 0.130(b). ATF investigations focusing on violent crime frequently involve complex criminal organizations with multiple criminal enterprises and uncover drug-related offenses in addition to offenses within ATF's primary jurisdiction, such as violations of the Gun Control Act, 18 U.S.C. Chapter 44, or the Contraband Cigarette Trafficking Act, 18 U.S.C. Chapter 114. In such investigations, ATF does not currently have authority under 21 U.S.C. Chapter 13 to seize for administrative forfeiture property involved in controlled substance offenses. Instead, ATF generally refers such property to the Drug Enforcement Administration (DEA), which is primarily responsible for investigating violations of drug laws contained in title 21 of the United States Code. DEA then initiates, processes, and concludes all necessary forfeiture actions for the controlled-substance-related property.

The Department of Justice believes that forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that would continue to function after conviction and incarceration. The Department further believes that administrative forfeiture permits the expedient and effective use of this crucial law enforcement tool.

An uncontested administrative forfeiture can be perfected in 60–90 days for minimal cost, including the statutorily required advertisement and notice by registered mail. Conversely, the costs associated with judicial forfeiture can amount to hundreds or thousands of dollars and the judicial process generally can take anywhere from 6 months to years. In the meantime, the government incurs additional costs if the property requires storage or maintenance until a final order of forfeiture can be obtained.

In recognition of the link between drug trafficking and many criminal organizations, the Attorney General has authorized the Federal Bureau of Investigation (FBI) to seize and forfeit property under 21 U.S.C. 881. *See* 28 CFR 0.85(a). This delegation of authority has allowed the FBI to more effectively investigate and dismantle criminal organizations.

ATF joined the Department of Justice in January 2003 pursuant to the Homeland Security Act of 2002 (Pub. L. 107–296). One of the primary missions of the ATF is to combat firearm-related violent crime. The nexus between drug trafficking and firearm violence is well established. The Attorney General, however, has not previously delegated to ATF title 21 seizure and forfeiture authority. On review of the current role and mission of ATF within the Department of Justice, the Attorney General has decided to authorize a temporary delegation of title 21 seizure and forfeiture authority to determine whether such authority can enhance the effectiveness of ATF in the investigation of violent crimes involving firearms. Consequently, by this final rule the Attorney General is delegating administrative seizure and forfeiture authority under 21 U.S.C. 881 to the ATF for a trial period of one year. The language in this rule delegating administrative forfeiture authority to ATF is modeled after the language in the FBI authorization. ATF may continue to exercise this delegated authority for all property in its possession on or before the end of the one-year period, even if this delegation is not otherwise extended.

Final Rule

This rule amends the regulations in 28 CFR part 0 to authorize the Director of ATF to exercise, for a period of one year from the effective date of this final rule, the authority to seize, forfeit, and remit or mitigate the forfeiture of property in accordance with 21 U.S.C. 881.

Forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that otherwise would continue to function after conviction and incarceration of individual participants. The Attorney General has decided to adopt a one-year delegation of administrative seizure and forfeiture authority to permit ATF to make expedient and effective use of this crucial law enforcement tool in the investigation of organizations and

individuals involved in firearm violence associated with drug trafficking. After considering the effectiveness of this delegation over the course of the one-year period, the Attorney General may elect to make the delegation of authority to the ATF permanent in a subsequent rulemaking.

Administrative Procedure Act (APA)

Notice and comment rulemaking is not required for this final rule. Under the APA, "rules of agency organization, procedure or practice," 5 U.S.C. 553(b)(A), that do not "affect[] individual rights and obligations," *Morton* v. *Ruiz*, 415 U.S. 199, 232 (1974), are exempt from the general notice and comment requirements of section 553 of title 5 of the United States Code. *See JEM Broad. Co.* v. *FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994) (section 553(b)(A) applies to "agency actions . that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency") (quoting *Batterton* v. *Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980) (internal quotation marks omitted)). The revisions to the regulations in 28 CFR part 0 are purely a matter of agency organization, procedure, and practice that will not affect individual rights and obligations. This rule does not expand the government's ability as a matter of law to effectuate forfeitures; it simply authorizes the Director of ATF to effectuate such forfeitures. Internal delegations of authority such as in this final rule are "rules of agency organization, procedure, or practice under the APA".

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866 and Executive Order 13563

This rule has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation, and with Executive Order 13563, "Improving Regulation and Regulatory Review.," This rule is limited to agency organization, management, or personnel matters as described by Executive Order 12866, section 3(d)(3) and, therefore, is not a "regulation" or "rule" as defined by that Executive Order.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform."

Executive Order 13132

This rule 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. Therefore, in accordance with Executive Order 13132, "Federalism," the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a rule for purposes of the reporting requirement of 5 U.S.C. 801.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Whistleblowing.

Authority and Issuance

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509, 510, and for the reasons set forth in the preamble, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for 28 CFR Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 2. Section 0.130 is amended by designating paragraph (b) as paragraph (b)(1) and by adding new paragraph (b)(2) to read as follows:

§ 0.130 General functions.

* * * * *

(b)(1) * * *

(2) Seize, forfeit, and remit or mitigate the forfeiture of property in accordance with 21 U.S.C. 881 and applicable Department of Justice regulations. This authority is effective during the 12-month period beginning on February 25, 2013 and ending on February 25, 2014, except that it may continue to be exercised after February 25, 2014 with respect to any property in the Bureau's possession on or before that date.

* * * * *

Dated: August 21, 2012.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2012–20923 Filed 8–24–12; 8:45 am]

BILLING CODE 4410–19–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0794]

Drawbridge Operation Regulation; Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary

deviation from the regulation governing the operation of the Cape Fear River Memorial Bridge, at mile 26.8, over Cape Fear River, at Wilmington, NC. The deviation restricts the operation of the draw span to facilitate the structural repairs of the bridge.

DATES: This deviation is effective from 8 p.m. on September 26, 2012 until 5:30 a.m. on October 15, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket USCG–2012–0794 and are available online by going to *http://www.regulations.gov*, inserting USCG–2012–0794 in the "Keywords" box, and then clicking "Search". This material is also available for inspection or copying the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398–6422, email *Bill.H.Brazier@uscg.mil*. If you have questions on reviewing the docket, call Renne V. Wright, Program Manager, Docket Operations, 202–366–9826.

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation, who owns and operates this vertical lift bridge, has requested a temporary deviation to facilitate cable replacement on the structure.

Under the regular operating schedule, the bridge opens on signal as required by 33 CFR 117.5, except that under 33 CFR 117.822, the draw need not open for the passage of vessels from 8 a.m. to 10 a.m. on the second Saturday of July and from 7 a.m. to 11 a.m. on the first or second Sunday of November every year.

The Cape Fear River Memorial Bridge, at mile 26.8, at Wilmington, NC, has vertical clearances in the open and closed positions of 135 feet and 65 feet above mean high water, respectively.

Under this temporary deviation, the drawbridge will be closed to navigation beginning at 8 p.m. on September 26, 2012 until and including 5:30 a.m. on October 1, 2012, and again from 8 p.m. on October 10, 2012 until and including 5:30 a.m. on October 15, 2012. There are no alternate routes for vessels transiting this section of the Cape Fear River. The drawbridge will be unable to open in the event of an emergency.

Typical vessel traffic on the Cape Fear River includes a variety of vessels from freighters, tug and barge traffic, and recreational vessels. Vessels that can pass under the bridge without a bridge opening may continue to do so at anytime.

The Coast Guard has carefully coordinated the restrictions with commercial and recreational waterway users. The Coast Guard will inform all users of the waterway through our Local and Broadcast Notice to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

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

Dated: August 14, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–20977 Filed 8–24–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0774]

Drawbridge Operation Regulations; Wando River, Cainhoy, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Seventh Coast Guard District, has issued a temporary deviation from the operating schedule that governs the S41 Swingbridge across the Wando River mile 10.0, at Cainhoy, Berkeley County, South Carolina. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the S41 Swingbridge to open on the hour and half-hour which is anticipated to improve vessel traffic flow.

DATES: This deviation is effective from 8 p.m. on September 1, 2012 through 5 p.m. on December 31, 2012.

Comments and related material must be received by the Coast Guard on or before February 28, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0774 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Michael Lieberum, Seventh District Bridge Branch, Coast Guard; telephone (305) 415–6744, email *Michael.B.Lieberum@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

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

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0774), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your

document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2012–0774," click "Search," and then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2012–0774" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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

Public Meeting

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

Basis and Purpose

The S41 Swingbridge across Wando River mile 10.0, Cainhoy, Berkeley County, South Carolina has a vertical clearance of 6 feet in the closed position. The operating schedule as published in 33 CFR 117.939 states the draw of the S41 bridge shall open on signal if at least 12 hours notice is given. This regulation has been in effect since 1965.

Local mariners have asked the Coast Guard to evaluate the operating schedule to determine if more frequent openings would improve the accessibility of the waterway to maritime navigation. An estimated 400 recreational boats use the waterway in the local area. However, boaters upriver from the bridge have stated that the bridge's low vertical clearance and requirement for 12-hours notice prevents boaters from accessing waterways, like Charleston harbor and the ocean, on the downriver side of the bridge. The South Carolina Department of Transportation has advised that approximately 1000 to 3000 vehicles per day cross this bridge. The Coast Guard anticipates daily bridge openings during this test a positive impact on navigation with the increased use of the waterway by vessel traffic.

This deviation is effective from 8 p.m. on September 1, 2012 through 5 p.m. on December 31, 2012. The S41 Swingbridge shall open on the hour and the half hour, 24 hours-a-day, seven days-a-week.

Following the test deviation period, the Coast Guard will review the bridge logs from the bridge owner to evaluate the impact of this test on local marine traffic. The Coast Guard will also consider all comments and related materials submitted in response to this test deviation. The Coast Guard will then evaluate whether a permanent change to the operating schedule of the S41 Swingbridge is necessary, and under what conditions the bridge should open.

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

Dated: August 10, 2012.

B.L. Dragon,

Bridge Program Director, Seventh Coast Guard District

[FR Doc. 2012–20978 Filed 8–24–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85, 86, 600, 1033, 1036, 1037, 1039, 1065, 1066, and 1068

[EPA–HQ–OAR–2010–0162; FRL–9720–9]

EPA's Denial of the Petition To Reconsider the Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition to reconsider.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is denying the petition of Plant Oil Powered Diesel Fuel Systems, Inc. ("POP Diesel") to reconsider the final rules establishing emissions standards to reduce greenhouse gas emissions from on-road heavy-duty vehicles.

DATES: This denial is effective August 27, 2012.

ADDRESSES: EPA's docket for this action is Docket ID No. EPA–HQ–OAR–2010–0162. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA's Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. This Docket Facility 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Steven Silverman, Office of General Counsel, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–5523; email address: *silverman.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this Decision.

CAA Clean Air Act
CO_2 carbon dioxide
EV electric vehicle

EPA Environmental Protection Agency
FR Federal Register
FCV fuel cell vehicle
GHG greenhouse gas
GVWR gross vehicle weight rating
HD heavy-duty
N_2O nitrous oxide
NHTSA National Highway Traffic Safety Administration
POP Diesel Plant Oil Powered Diesel Fuel Systems, Inc.
PHEV plug-in hybrid electric vehicle
RFS Renewable Fuel Standard
RIN Renewable Identification Number
VMT vehicle miles travelled

I. Introduction

On September 15, 2011, the EPA issued final rules establishing standards limiting emissions of CO_2, methane, nitrous oxide (N_2O) and hydrofluorocarbons (greenhouse gases or GHGs) from on-road heavy-duty vehicles, including combination tractors, heavy-duty pickup trucks and vans, and vocational vehicles. 76 FR 57106 (September 15, 2011). In this joint rulemaking the National Highway Traffic Safety Administration (NHTSA), on behalf of the Department of Transportation, issued rules for fuel consumption from these vehicles at the same time. Together these rules comprise a coordinated and comprehensive Heavy-Duty (HD) National Program designed to address the urgent and closely intertwined challenges of reduction of dependence on oil, achievement of energy security, and amelioration of global climate change.

POP Diesel petitioned EPA to reconsider its greenhouse standards. Because the petition does not state grounds which satisfy the requirements of section 307(d)(7)(B) of the Act, and does not provide substantial support for the argument that the promulgated regulation should be revised, EPA is denying the petition.

II. Standard for Reconsideration

Section 307(d)(7)(B) of the Clean Air Act (CAA) states that: "Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit. Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed pending such reconsideration, however, by the Administrator or the court for a period not to exceed three months."

Thus, for reconsideration to be mandated, a petition for reconsideration must show why the objection or claim could not have been presented during the comment period—either because it was impracticable to raise the objection during that time or because the grounds for raising the objection arose after the period for public comment but within 60 days of publication of the final action (i.e. "the time specified for judicial review"). To be of central relevance to the outcome of a rule, an objection must provide substantial support for the argument that the promulgated regulation should be revised. See 76 FR 28318 (May 17, 2011) and other actions there cited.

Because all of the objections or claims raised in POP Diesel's petition could have been presented to EPA during the rulemaking, EPA is denying the request for reconsideration. EPA also finds that the petitioner has not provided substantial support for the argument that the promulgated regulation should be revised and is denying the request for reconsideration for that reason as well.

III. POP Diesel's Petition for Reconsideration

POP Diesel filed a petition for reconsideration with EPA on November 14, 2011 and supplemented this petition on February 12, 2012. The company produces equipment intended to be installed after-market on diesel engines to permit the engines to operate on 100 percent untransestrified plant oil. February 12 Petition p. 12. The engine starts and shuts down on diesel from an original fuel tank during startup and shutoff but at all other times would run on 100 percent plant oil coming from an auxiliary tank. *Id* POP Diesel states that engines operated on vegetable oils with its systems incur "only a modest fuel consumption penalty" but would have superior GHG performance if evaluated on a full lifecycle basis. November 14, Petition p. 13; February 12 Petition p. 22.

The objection raised in POP Diesel's petitions is that EPA failed to adequately consider the so-called rebound effect during the rulemaking. POP Diesel maintains that "[t]he GHG standards will have the effect of making diesel engines less expensive to operate on petroleum fuel, which may, in fact, spur demand and have the result of increasing overall energy consumption and likely, consumption of fossil fuels." November 14, 2011 Petition p. 15. In its supplement to its original petition, POP Diesel elaborated on this objection, maintaining that the rules would increase GHG emissions from heavy-duty vehicles due to aspects of the rebound effect not accounted for in EPA's analysis. Specifically, POP Diesel maintains that EPA underestimated the direct rebound effect and that a revised estimate of the direct rebound effect would result in an increase in greenhouse gas emissions Also, POP Diesel maintains that there are indirect, "embedded energy" (increased energy use as a result of additional goods and services produced) and "frontier" (creation of new, energy-intense products) rebound effects which EPA failed to examine, instead only analyzing direct effects in the form of estimated increase in vehicle miles travelled (and increases in GHG and criteria pollutant emissions associated with that increase). February 12, 2012 Supplemental Petition p. 12. These objections are accompanied by a supporting declaration of Dr. Harry Duston Saunders (a published researcher in energy economics) likewise dated February 12, 2012.

POP Diesel does not address why this objection could not have been raised during the public comment period, as required by section 307(d)(7)(B). EPA discussed the rebound effect at length in the proposed rule. See 75 FR 74152, 74316–20 (November 30, 2010). The proposal included specific discussions of factors affecting the magnitude of the rebound effect, options for quantifying the effect (including aggregate estimates, sector-specific estimates, econometric estimates, and other modeling approaches), as well as quantified estimates of the effect which EPA thereupon applied in estimating the proposed rules' impacts on GHG emissions, criteria pollutant emissions, as well as overall costs and benefits of the proposed program. *Id.* and 75 FR at 74290, 74313; see also Regulatory Impact Analysis: Final Rulemaking to Establish Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles, Docket #EPA–HQ–OAR–2010–0162–3634, pages 9–9 through 9–18. EPA received comments

on its approach to the rebound effect and responded to them as part of the rulemaking. 76 FR at 57326–30; see also Response to Comments Document at 14–24. It is therefore apparent that POP Diesel had the opportunity to present all of its objections regarding the rebound effect during the rulemaking. Indeed, POP Diesel properly acknowledges that its objections are "belate[d]". February Petition p. 4.

A second reason that POP Diesel's objections do not require EPA to reconsider the rule is that the declaration of Dr. Saunders is dated February 12, 2012, outside of the period specified for judicial review—i.e. November 11, 2011. Even if POP Diesel's objections could not have been raised during the public comment period (which is not the case), the grounds for objection did not arise "during the time specified for judicial review", as required by section 307(d)(7)(B).

POP Diesel also reiterates a number of arguments it already presented to EPA in its comments to the proposed rule. Specifically, the petition maintains that EPA should have evaluated all emission control technologies on a lifecycle basis ("[i]n considering only tailpipe emissions, rather than the full lifecycle GHG emissions of a technology and fuel that would result from a wells-to-wheels analysis, the Regulations arbitrarily favor and disfavor some alternatives over others", February amended petition p. 7). EPA addressed these issues during the rulemaking. See 75 FR at 74198, 255–56 (proposal); 76 FR at 57246–47 (final rule) and Response to Comment Document at 16–157. EPA's proposal likewise addressed the issues of whether compliance with the standards should be measured on a tailpipe or lifecycle basis, and what if any incentives were appropriate for advanced technologies and alternative fuel vehicles. See 75 FR at 74198, 255–56. Consequently, these are not issues which EPA is compelled to reconsider under section 307(d)(7)(B), since these objections could have been and were raised during the public comment period on the proposed rule. EPA also rejects the substance of the arguments raised in the petitions.[1]

A. Direct Rebound Effect

POP Diesel first maintains that EPA underestimated the extent of the direct rebound effect, and that assigning different estimates of rebound effects to different heavy-duty vehicle classes (medium-duty pickups and vans, vocational vehicles, and combination tractors) was arbitrary. Saunders Affidavit paras. 35–36.[2] EPA explained its rationale for selecting VMT rebound values for these three categories of vehicles in both the proposed and final rules. In short, the values for vocational vehicles and combination tractors fall within the range of estimates presented in two available analyses of the HD rebound effect.[3] See 76 FR 57326–330. For medium-duty pickups and vans, EPA applied the light-duty VMT rebound effect estimate from the final rule establishing GHG standards for MYs 2012–2016 light-duty vehicles. *Id.* at 57329. EPA reasonably did so since there were no estimates of the direct rebound effect for medium-duty pickup trucks and vans (class 2b and 3) cited in the literature, and these classes of vehicles are used for purposes more similar to large light-duty vehicles than the other heavy-duty vehicle categories.

These values are based on the best available data and econometric methods[4] and reflect many of the components of the VMT rebound effect that POP Diesel alleges (mistakenly) that EPA ignored (*e.g.*, shifts of freight shipments from other transportation modes to trucking). At proposal, we explicitly requested, but did not receive, comment on all of the rebound estimates and assumptions in our proposed rule. 75 FR at 74320. EPA continues to believe that its estimate of direct VMT rebound effect in the final rule is reasonable.

B. Indirect Rebound Effects

POP Diesel also maintains that EPA should account for the energy and GHG emissions impact associated with the so-called "indirect" rebound effects (distinct from the "direct" rebound effect). These effects could arise from the decline in fuel costs as a result of the rule, which could make goods and services transported by the U.S. trucking industry less expensive. In turn, less expensive goods and services could result in increased consumption of goods and service in the overall economy. Producing extra goods and services requires that more energy be used. This extra energy use can be thought of as "embodied" in the extra goods and services. Hence the term for this type of indirect rebound effect is the "embodied energy" rebound effect. The increased energy use from this type of indirect rebound effect could result in increased greenhouse gas emissions. Saunders Affidavit para. 46 Appendix A. A further indirect rebound effect unaccounted for, according to the petition, is the "frontier" rebound effect whereby energy efficiency gains enable creation of completely new products which are themselves energy intensive. *Id. para. 26.*[5] POP Diesel maintains that these assorted indirect effects are of such magnitude as to create a "backfire" condition, negating all of the emission benefits of the rule.

EPA is not aware of any data to indicate that the magnitude of indirect rebound effects, if any, would be significant for this rule. Research on indirect rebound effects is nascent. The magnitude of effects from our rule postulated in the Saunders affidavit has no support in the literature,[6] reflects no

[1] EPA may permissibly respond to a request for reconsideration without triggering additional notice and comment opportunities for a petitioner or other entities. *Coalition for Responsible Regulation* v. *EPA*, No. 09–1322 (D.C. Cir. June 26, 2012) slip op. p. 39.

[2] Dr. Saunders cites Knittel, *Automobiles on Steroids*, for the proposition that "in the personal transportation sector of the United States, a rebound effect of 75% between 1980 and 2006 existing because most of the technical engine efficiency gains were offset by consumers choosing to take improvements in engine efficiency in the form of increased vehicle weight and substantial increases in average horsepower." Saunders Affidavit para. 14. The Knittel study does not attribute any fleet shifts to a rebound effect, and also discusses the light-duty vehicle sector exclusively. The study therefore has no apparent relevance to the heavy-duty GHG rulemaking, or to a discussion of rebound effects.

[3] The first analysis, from Cambridge Systematics, Inc., was commissioned by the National Academy of Sciences and uses a range of freight elasticities in the literature combined with technology cost and fuel saving scenarios to estimate the potential magnitude of the HD rebound effect. See 76 FR 74328. The second analysis, conducted by NHTSA, is an econometric analysis that estimates short-run and long-run elasticities of annual VMT with respect to fuel cost per mile driven using data on national and state VMT and a variety of other variables such as GDP, the volume of imports and exports, and factors affecting the price of trucking services (e.g., driver wages). Id. at 57329.

[4] The "Saunders study" discussed in the Saunders affidavit (Saunders Affidavit para. 31–36) was not presented to EPA during the public comment period, it reflects no expert peer review, and, as Dr. Saunders acknowledges, examines the entire transportation sector rather than the medium- and heavy-duty vehicle sector covered under EPA's rule.

[5] The Saunders declaration does not provide any examples of potential "frontier" rebound effects from the heavy-duty GHG rule, besides "the rise of internet shopping" that allows people to buy products from distant locations instead of purchasing products locally. Increased internet shopping is a well established market trend, so we do not see how it could be reasonably attributed to the modest increase in truck fuel efficiency that our standards will bring about. Furthermore, there are many factors that have contributed to increased internet shopping, most notably the widespread use of computers and advances in internet applications, which took place and would likely continue to take place in the absence of any improvements in truck efficiency.

[6] Dr. Saunders cited only one published study quantifying indirect rebound effects (Druckman et al., 2011). Saunders affidavit para. 16. Although this UK-based study could offer insights into how to estimate indirect rebound effects in some contexts, the method may not be appropriate here for many

Continued

expert peer review, and in the end is speculative. It appears highly improbable that all of the GHG emissions benefits of this rule would be negated by putative indirect rebound effects. As discussed in the proposed and final rules, all of the fuel costs savings will not necessarily be passed through to the consumer in terms of cheaper goods and services. First, there may be market barriers that impede trucking companies from passing along the fuel cost savings from the rule in the form of lower rates; see 75 FR at 74320 and 76 FR at 57329–30. Second, there are upfront vehicle costs (and potentially transaction or transition costs associated with the adoption of new technologies) that would partially offset some of the fuel cost savings from our rule, thereby limiting the magnitude of the impact on prices of final goods and services. Furthermore, there are additional benefits to consumers associated with increased consumption of goods and services, which would be important to consider if we were assessing the overall costs and benefits associated with potential indirect rebound effects from our rule. EPA thus does not accept this speculative assessment.

C. Fuel-Based Rule Rather Than a Vehicle-Based Rule

POP Diesel requests EPA to re-evaluate the weight given to various alternative technologies and fuels according to a lifecycle approach, and to decouple fuel efficiency policy from GHG emissions policy. February 12 Petition p. 2. In setting emissions standards for heavy-duty vehicles, EPA reasonably chose to consider the impact on GHG emissions of the fuels used by the different types of vehicles by measuring the tailpipe emissions of vehicles, including alternative fuel vehicles (which normally emit less GHG emissions than gasoline or diesel-powered vehicles).[7] In a separate program, the Congressionally mandated Renewable Fuels Standard (RFS) program, there are strong incentives for use of renewable diesel fuels and other renewable fuels. See 76 FR at 57124. This program is specifically designed to mandate increasing volumes of renewable fuel use in transportation fuels, including renewable fuel used in heavy-duty diesel vehicles. The definition of renewable fuel includes thresholds for reductions in lifecycle greenhouse gas emissions, compared to petroleum fuel. For example, specified volumes of biomass-based diesel fuel must be used in the diesel transportation sector, and biomass-based diesel is defined in part as a diesel fuel that achieves a 50 percent reduction in lifecycle greenhouse emissions compared to baseline petroleum diesel fuel. POP Diesel points out that its product is not presently eligible to receive Renewable Identification Number (RIN) credits under that program, but this is an issue which is properly considered under the RFS program, which contains the mechanisms for determining whether a diesel fuel qualifies as a renewable fuel.

EPA also does not accept the major premise of POP Diesel's reconsideration petition and rulemaking comments. The company argues that it is arbitrary that EPA has not established greenhouse gas emission standards for heavy-duty vehicles premised on use of their technology and its fuel. Under such a standard, the GHG level of a vehicle using POP Diesel would be tailpipe emissions adjusted by a factor reflecting the claimed reduction in lifecycle GHG emissions to produce the POP Diesel fuel. See, *e.g.*, November 14, 2011 Petition for Reconsideration pp. 1–2 ("If the Regulations did consider this technology, they could mandate much steeper reductions in greenhouse gas * * * emissions by requiring every engine and vehicle manufacturer of medium- and heavy-duty engines and vehicles to comply with a corporate average for such emissions").

The heavy-duty vehicle and engine GHG standards are fuel neutral in that they do not themselves require or assume that a vehicle or engine will be operated on a particular type of fuel. If POP Diesel's technology helps manufacturers reduce tailpipe GHG emissions, then it will have the same opportunities as any other technology that manufacturers will use to meet the standards. Moreover, POP Diesel has not correctly characterized the agencies' consideration of the interaction between the RFS program and the heavy-duty GHG standards. As explained in the final rule, the tailpipe performance measurement of alternative fuels provides sufficient incentives for their use. While the agencies noted that incentives in the RFS pointed to a lack of a need for further incentives, the rule's treatment of alternative fuels was not premised on each alternative fuel being covered by the RFS Standard.[8] Indeed, other alternative fuels are similarly not covered by the RFS standard, such as liquefied natural gas, compressed natural gas, propane, hydrogen and electricity.

Only where the vehicle or engine technology inherently demands a certain type of fuel do the standards account for that fuel use, by specifying the calculation procedure used to determine tailpipe emissions. This is the case with electric vehicles (EV), plug-in hybrid electric vehicles (PHEV), and hydrogen fuel cell vehicles, where the technology itself necessitates use of electricity rather than petroleum-based fuels.[9] Unlike EVs, PHEVs, or FCVs,

reasons. First, the U.S. economy and consumer behavior is likely to differ from other countries (e.g., Americans have different product and service preferences and our products and services have different levels of embedded energy). Similar data and models may not exist to replicate the UK study in a U.S.-context. Second, the study is designed to examine behavioral strategies (e.g., lowering thermostats, reducing food waste, and biking instead of using a car) rather than improving technology. Among other things, the study does not consider capital expenditures associated with energy savings that could dampen any increase in consumption of additional goods and services (*e.g.*, our rule increases the cost of new vehicles, which offsets the fuel cost savings that trucking firms may pass along to shippers, which in turn, would dampen any decrease in product prices that shippers pass along to consumers). Third, the study does not consider the potential for economic restructuring in response to decreased energy consumption (i.e., it does not consider "general equilibrium" effects), which could lead to either lower or higher energy consumption as a result of our rule. Fourth, the authors recognize that there is a major limitation of the study: they have only a very small number of expenditure categories in their model and there is considerable disparity in GHG intensities of commodities within each category (p. 3578). Fifth, the study does not directly explore the market mechanism through which our rule could influence the amount of goods and services consumed since it focuses on energy efficiency improvements that more directly increase consumers' disposable income rather than the more complex and indirect pathway where greater truck fuel efficiency may result in lower-priced goods and services. Finally, the authors do not attempt to quantify the additional benefits to consumers associated with increased consumption of goods and services, which would be important to consider if we were assessing the overall costs and benefits associated with potential indirect rebound effects from our rule.

[7] POP Diesel's statement that the rules arbitrarily assign zero emissions and zero fuel consumption to electric vehicles (February revised petition, p. 6) is also misplaced. In fact, compliance with the standards is measured identically for all medium- and heavy-duty vehicles and engines: at the tailpipe. *See* 76 FR at 57247. Electric vehicles have zero GHG emissions measured at the tailpipe. POP Diesel states further that the standards are arbitrary in the GHG-reducing weight given to some alternative technologies and fuels. POP Diesel's complaint (February amended petition p. 6) that the rule provides incentives for use of certain advanced technologies such as hybrid electrification and hydrogen fuel cells questions legitimate policy choices unrelated to the issue of fuel use.

[8] *See* 76 FR 57124.

[9] Even so, the standards for medium- and heavy-duty EVs and PHEVs measure performance based on tailpipe emissions exclusively. *See* 76 FR at 57247. The MYs 2012–2016 standards for light-duty EVs and PHEVs do account for greenhouse gas emissions attributable to upstream electricity generation after a designated number of EVs and PHEVs are sold, but this upstream factor does not

there is nothing inherent in a diesel engine that compels use of the POP Diesel product. Therefore, a standard premised on that product's use would presuppose or require a market outcome which need not occur and would be infeasible and arbitrary.

Even if EPA were to assume that POP Diesel's claim of lifecycle emissions reductions are valid, and considered setting a vehicle emissions standard that assumed or required use of the POP Diesel technology and fuel, POP Diesel admits this would in fact lead to an increase in the actual GHG emissions from the vehicle. The only decrease in emissions would come from the claimed reduction in lifecycle GHG emissions that POP Diesel says would occur with use of their fuel. That would amount to adopting a vehicle emissions standard to promote a vehicle technology that does not reduce but instead increases the GHG emissions of the vehicle. The vehicle emissions standard would take that approach solely as a mechanism to mandate the use of a certain diesel fuel, based on emissions impacts associated with the fuel, not the vehicle. This would dramatically distort the purpose and structure of the *vehicle* emissions standard program, largely turning it into a de facto fuel program. There is no good reason to consider such a result here, especially where there already is a separate fuel based program, the RFS program, that is directly aimed at achieving the result POP Diesel seeks—a fuel program that achieves a reduction in lifecycle GHG emissions associated with the diesel fuel used by motor vehicles, through a mandate to use certain renewable diesel fuels.

A further reason this heavy-duty rule does not regulate GHG emissions from a lifecycle perspective, or include explicit consideration of plant-based fuels like the one utilized by POP Diesel's technology, is that it would no longer be possible to establish harmonized, performance-based tailpipe GHG emissions standards (EPA) and fuel efficiency standards (NHTSA). As discussed throughout the final rule, close coordination in this first heavy-duty rule enabled EPA and NHTSA to promulgate complementary standards that appropriately allow manufacturers to build one set of vehicles to comply with both agencies' regulations. See, *e.g.*, 76 FR at 57107–108. This coordination was advocated by the President, *id.*, widely supported by stakeholders, and provides benefits for industry, government, and taxpayers by increasing regulatory efficiency and reducing compliance burdens.

D. Fleet-Wide Average Standards

Finally, the petition maintains that EPA should impose corporate fleet averages for GHG emissions, asserting that EPA did so only for medium-duty engines and vehicles. *Id.* p. 23. In fact, the standards are effectively corporate averages. See EPA, Heavy-Duty Diesel Greenhouse Gas Response to Comment Document at p. 16–149—explaining that the rule allows averaging, banking, and trading of credits within the same "averaging set", which means a manufacturer can comply through averaging across (for example) all of its vocational vehicles under 19,501 pounds GVWR; or all of its Class 6 and 7 vocational vehicles and tractors (that is, between all vehicles above 19,500 pounds GVWR and less than 33,001 pounds GVWR); or between all vehicles with GVWR greater than 33,000 pounds; or within the engine averaging sets (spark ignition engines, compression-ignition light heavy-duty engines, compression-ignition medium heavy-duty engines, and compression-ignition heavy heavy-duty engines). See sections 1036.740(a) and 1037.740(a). In any case, this issue again was one which was presented at proposal and addressed in the final rule. See 75 FR at 74250–54 (proposal) and 76 FR at 57238–240 (final). Consequently, POP Diesel has again failed to show why its objection can be raised outside the period for public comment, and in any case is mistaken. CAA section 307(d)(7)(B).

Accordingly, because POP Diesel has not stated grounds requiring or justifying reconsideration under section 307(d)(7)(B) EPA is denying its petition.

Dated: August 17, 2012.

Lisa P. Jackson,

Administrator.

[FR Doc. 2012–21032 Filed 8–24–12; 8:45 am]

BILLING CODE 6560–50–P

reflect a single means of generating electricity and so differs from POP Diesel's desired outcome, which is fuel specific. See 75 FR 25326, 25436–37 (May 7, 2010).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 369

[Docket No. FMCSA–2012–0020]

RIN–2126–AB48

Rescission of Quarterly Financial Reporting Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Withdrawal of direct final rule.

SUMMARY: FMCSA withdraws its June 27, 2012, direct final rule eliminating the quarterly financial reporting requirements for certain for-hire motor carriers of property (Form QFR) and for-hire motor carriers of passengers (Form MP–1). After reviewing the adverse comment received from SJ Consulting Group in response to the direct final rule, the agency has determined that it would be inappropriate to allow the direct final rule to take effect. The FMCSA intends to publish a notice of proposed rulemaking in the near future proposing the elimination of the quarterly financial reporting requirements for Form QFR and Form MP–1.

DATES: The direct final rule published at 77 FR 38211, June 27, 2012 is withdrawn, effective August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Vivian Oliver, Office of Research and Information Technology, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590; Telephone 202–366–2974; email *Vivian.Oliver@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Comments

A. Viewing Comments and Documents

To view comments, go to *http://www.regulations.gov/#!docketDetail;D=FMCSA-2012-0020*. If you do not have access to the Internet, you may also view the docket online by visiting 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. e.t., Monday through Friday, except Federal holidays.

B. Privacy Act

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

II. Background

On June 27, 2012, FMCSA published a direct final rule proposing to eliminate the quarterly financial reporting requirements for certain for-hire motor carriers of property (Form QFR) and for-hire motor carriers of passengers (Form MP–1), if no adverse comments were received by July 27, 2012. After

reviewing the one set of adverse comments received from SJ Consulting Group, the agency has determined that it would be inappropriate to allow the direct final rule to take effect.

SJ Consulting Group stated that it uses the quarterly financial information to advise motor carriers, shippers, and persons interested in buying motor carriers. It argued that the quarterly reports provide useful insight into the U.S. trucking industry, such as operating statistics that are not available from other public sources, particularly for private carriers. Although SJ Consulting conceded that says some data on general demand and pricing trends are available from other sources, it argued that quarterly data on the profitability of carriers are essential in providing safe and timely service to shippers, estimating future growth rates, and assessing opportunities for profitable investment in the trucking industry. SJ Consulting has used Form QFR reports for these purposes for many years.

FMCSA Response: SJ Consulting submitted an adverse comment with an explanation of why it disagrees with the direct final rule. For this reason, FMCSA withdraws the direct final rule of June 27, 2012, based on the adverse comments of SJ Consulting Group.

Issued on: August 15, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–21021 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 375

[Docket No. FMCSA–2011–0313]

RIN 2126–AB41

Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations: Household Goods Motor Carrier Record Retention Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: FMCSA confirms the effective date for its July 16, 2012, direct final rule concerning the period during which household goods (HHG) motor carriers must retain documentation of an individual shipper's waiver of receipt of printed copies of consumer protection materials. The direct final rule harmonized the retention period with other document retention requirements applicable to HHG motor carriers. FMCSA also amended the regulations to clarify that a HHG motor carrier is not required to retain waiver documentation from any individual shippers for whom the carrier does not actually provide services. The Agency did not receive any comments in response to the direct final rule and confirms the November 13, 2012, effective date of the rule.

DATES: The effective date for the direct final rule published in the **Federal Register** on July 16, 2012 (77 FR 41699), is confirmed as November 13, 2012.

ADDRESSES: The docket for this rulemaking (FMCSA–2011–0313) is available for inspection at *http://www.regulations.gov/#!docketDetail;D=FMCSA-2011-0313*. If you do not have access to the Internet, you may also view the docket by visiting 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. e.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Brodie Mack, FMCSA, Household Goods Team Leader, Commercial Enforcement and Investigations Division at (202) 385–2400 or by email at *brodie.mack@dot.gov*.

SUPPLEMENTARY INFORMATION: On July 16, 2012, FMCSA published a direct final rule amending its regulations at 49 CFR part 375. The rule reduced the retention period in 49 CFR 375.213(e)(3) from three years to one year for signed receipts documenting an individual shipper's waiver of physical receipt of the consumer protection publications "Your Rights and Responsibilities When You Move," and "Ready to Move?—Tips for a Successful Interstate Move." The change harmonized this requirement with other requirements in part 375 that require HHG motor carriers to retain shipping documents for only one year. The rule also clarified a HHG motor carrier that obtains a signed waiver from a shipper is required to comply with the retention requirements in § 375.213(e)(3) only if the carrier actually provides moving services to the shipper.

FMCSA used the Agency's direct final rule procedures (75 FR 29915, May 28, 2010) because it was a routine and noncontroversial amendment, and the Agency did not expect any adverse comments. The direct final rule advised the public that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received by August 15, 2012, the Agency would provide notice confirming the effective date. Because the Agency did not receive any comments to the docket by August 15, 2012, the direct final rule will become effective November 13, 2012.

Issued on: August 20, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–21031 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 390

[Docket No. FMCSA–2012–0156]

RIN 2126–AB53

Gross Combination Weight Rating (GCWR); Definition

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) amends the definition of "gross combination weight rating" (GCWR) in our regulations. The definition currently prescribes how the GCWR is calculated if the vehicle manufacturer does not include the information on the vehicle certification label required by the National Highway Traffic Safety Administration (NHTSA). The Agency has determined the definition should not include what is essentially guidance that is difficult for the motor carrier and enforcement communities to use. Therefore, FMCSA amends this definition to state that the GCWR is the value specified by the commercial motor vehicle manufacturer.

DATES: This rule is effective October 26, 2012, unless an adverse comment or notice of intent to submit an adverse comment, is either submitted to our online docket via *http://www.regulations.gov* on or before September 26, 2012 or reaches the Docket Management Facility by that date. If an adverse comment or notice of intent to submit an adverse comment is received by September 26, 2012, we will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

ADDRESSES: You may submit comments identified by docket number FMCSA–

2012–0156 using any one of the following methods:

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

(2) *Fax:* (202) 493–2251.

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

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

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

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Office of Enforcement and Program Delivery, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at (202) 366–1812 or via email at *Thomas.Kelly@dot.gov.* Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

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

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2012–0156), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comment and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. As a reminder, FMCSA will only consider adverse comments as defined in 49 CFR 389.39(b) and explained below.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "FMCSA–2012–0156" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comment by mail or hand delivery, submit it in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit it by mail and would like to know that it reached the Facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "FMCSA–2012–0156" and click "Search." Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the Internet, you may also view the docket online by visiting 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.

C. Privacy Act

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

II. Abbreviations

FMCSA Federal Motor Carrier Safety Administration
FR **Federal Register**
GCWR Gross combination weight rating
NHTSA National Highway Traffic Safety Administration

III. Regulatory Information

FMCSA publishes this amendment to parts 383 and 390 under the direct final rule procedures in 49 CFR 389.11 and 389.39 because we believe the rule is a routine, non-controversial amendment to the definition of "gross combination weight rating" (GCWR) in both 49 CFR 383.5 and 390.5. The rule would provide consistency between FMCSA's definition of GCWR and the definition of that term used by NHTSA under 49 CFR 571.3. FMCSA does not expect adverse comments. If no adverse comments or notices of intent to submit an adverse comment are received by September 26, 2012, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, FMCSA will publish a document in the **Federal Register** stating that no adverse comments were received and confirming that this rule will become effective as scheduled. However, if the Agency receives any adverse comments or notices of intent to submit an adverse comment, FMCSA will publish a document in the **Federal Register** announcing the withdrawal of all or part of this direct final rule. If an adverse comment applies only to part of this rule and it is possible to remove that part without defeating the purpose of this rule, the Agency may adopt, as final, that part of this rule on which no adverse comments were received. FMCSA will withdraw the part of this rule that was the subject of an adverse comment. If the Agency decides to proceed with a rulemaking following receipt of any adverse comments, FMCSA will publish a separate notice of proposed rulemaking and provide a new opportunity for comment.

A comment is considered "adverse" if the comment explains why this rule or a part of this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

IV. Background

Currently, the definitions in 49 CFR 383.5 and 390.5 both say:

Gross combination weight rating (GCWR) means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by

adding the GVWR [1] of the power unit and the total weight of the towed unit and any load thereon.

The first sentence of the definition is entirely correct; this is the definition used by other authorities. The second sentence, however, presents an alternative definition that is not used to determine GCWR by either vehicle manufacturers or the National Highway Traffic Safety Administration (NHTSA) (*see* 49 CFR 571.3) ("Gross combination weight rating or GCWR means the value specified by the manufacturer as the loaded weight of a combination vehicle.") As FMCSA and its State partners increase their monitoring of drivers and carriers through roadside inspections, investigations and the Agency's Safety Measurement System and other tools, questions from industry and the enforcement community about the inconsistency between FMCSA's GCWR definition in 49 CFR 383.5 and 390.5 and NHTSA's definition in 49 CFR 571.3 make it clear that the FMCSA definition must be changed.

V. Discussion of the Rule

FMCSA is using a direct final rule to promulgate this correction to the GCWR definition in 49 CFR 383.5 and 390.5 because the Agency does not believe the change would have a net impact of the number of drivers or carriers subject to the FMCSRs, or the applicability of the requirements therein. Furthermore, we do not anticipate the submission of adverse comments. By removing the second sentence in the definition in both sections, the rule simply conforms the Agency's GCWR definition to the one used by NHTSA.

VI. Regulatory Analyses

E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined that this proposed rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), and not significant within the meaning of the Department of Transportation's regulatory policies and procedures because the direct final rule is not expected to generate substantial congressional or public interest. The rulemaking is unlikely to impose costs on the industry because the change to the GCWR definition would not have a net impact of the number of drivers or carriers subject to the FMCSRs, or the applicability of the requirements therein. The cost, if any, would be borne by motor carriers that had previously determined by reference to the inconsistent wording that their operations were not subject to certain safety regulations and that would now be required to achieve compliance with the applicable rules. The Agency believes this population to be negligible, and that the costs of the rule would not begin to approach the $100 million annual threshold for economic significance. This rule therefore has not been formally reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA is not required to prepare a final regulatory flexibility analysis under 5 U.S.C. 604(a) for this final rule because the agency has not issued a notice of proposed rulemaking prior to this action.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this direct final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the direct final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact, Tom Kelly, listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's 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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $143.1 million (which is the value of $100 million in 2010 after adjusting for inflation) or more in any 1 year.

E.O. 13132 (Federalism)

A rule has Federalism implications if the rule has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on the States. FMCSA has analyzed this rule under E.O. 13132 and determined that it does not have Federalism implications.

E.O. 12988 (Civil Justice Reform)

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

E.O. 13045 (Protection of Children)

FMCSA analyzed this action under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agency determined that this rule will not create an environmental risk to health or safety that may disproportionately affect children.

E.O. 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

Privacy Impact Assessment

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does not require the collection of any personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency which receives records contained in a system of records from a Federal agency for use in a matching program. FMCSA has determined this rule will not result in a new or revised Privacy Act System of Records for FMCSA.

E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental

[1] GVWR stands for gross vehicle weight rating.

consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. There is no new information collection requirement associated with this final rule.

National Environmental Policy Act and Clean Air Act

FMCSA analyzed this rule in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1 (69 FR 9680, March 1, 2004) that this action does not have any effect on the quality of the environment. Therefore, this final rule is categorically excluded (CE) from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(b) of Appendix 2. The CE under paragraph 6(b) addresses rulemakings that make editorial or other minor amendments to existing FMCSA regulations. A Categorical Exclusion Determination is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES.**

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

E.O. 13211 (Energy Supply, Distribution, or Use)

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

E.O. 13175 (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.

Technical Standards

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

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

List of Subjects

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway Safety, Incorporation by reference, Motor carriers.

49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

VII. The Final Rule

For the reasons stated above, FMCSA amends 49 CFR parts 383 and 390 in title 49, Code of Federal Regulations, chapter III, subchapter B, as follows:

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 et seq., and 31502; secs. 214 and 215, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 4140, Pub. L. 109–59, 119 Stat. 1144, 1746; and 49 CFR 1.73.

■ 2. Amend § 383.5 by revising the definition of "gross combination weight rating" to read as follows:

§ 383.5 Definitions.

* * * * *

Gross combination weight rating (GCWR) means the value specified by the manufacturer as the loaded weight of a combination motor vehicle.

* * * * *

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

■ 3. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 504, 508, 31132, 31133, 31136, 31144, 31151, and 31502; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677–1678; secs. 212, 217, and 229, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106–159 (as transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743–1744), sec. 4136, Pub. L. 109–59, 119 Stat. 1144, 1745; and 49 CFR 1.73.

■ 4. Amend § 390.5 by revising the definition of "gross combination weight rating" to read as follows:

§ 390.5 Definitions.

* * * * *

Gross combination weight rating (GCWR) means the value specified by the manufacturer as the loaded weight of a combination motor vehicle.

* * * * *

Issued on: August 16, 2012.

Anne S. Ferro,

Administrator.

[FR Doc. 2012–21017 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 120418015–2015–01]

RIN 0648–BC14

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Bigeye Tuna Catch Limit in Longline Fisheries for 2012

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

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule establishes a catch limit of 3,763 metric tons (mt) of bigeye tuna (*Thunnus obesus*) for vessels in the U.S. pelagic longline fisheries in the western and

central Pacific Ocean (WCPO) for calendar year 2012. The limit does not apply to vessels in the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands (CNMI). Once the limit of 3,763 mt is reached in 2012, retaining, transshipping, or landing bigeye tuna caught in the WCPO will be prohibited for the remainder of 2012, with certain exceptions. This action is necessary for the United States to satisfy its international obligations under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: Effective on September 26, 2012; comments must be submitted in writing by September 26, 2012.

ADDRESSES: Comments on this interim final rule, identified by NOAA–NMFS–2012–0145, and the supporting analytical documents may be sent to either of the two addresses below. The supporting documents include the 2012 supplemental environmental assessment (EA) and the regulatory impact review (RIR) prepared for this interim rule. The 2012 supplemental EA supplements a 2009 EA and a 2009 supplemental EA and includes copies of those two documents.

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking portal, at *http://www.regulations.gov;* or
- *Mail:* Mail written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700.

Instructions: Comments must be submitted to one of the two addresses above to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are part of the public record and generally will be posted on *http://www.regulations.gov* without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the RIR and the 2012 supplemental EA prepared under the authority of the National Environmental Policy Act (NEPA) are available at *http://www.regulations.gov* or may be obtained from Michael D. Tosatto, NMFS PIRO (see address above). The 2012 supplemental EA includes copies of the documents that it supplements—a 2009 EA and a 2009 supplemental EA.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–944–2219.

SUPPLEMENTARY INFORMATION:

Background on the Convention

Article 3 of the Convention specifies the area of application of the Convention (the Convention Area), which comprises the majority of the WCPO. A map showing the boundaries of the Convention Area can be found on the WCPFC Web site at: *http://www.wcpfc.int/doc/convention-area-map*. The objective of the Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the WCPO. To accomplish this goal, the Convention establishes the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). The current Members of the WCPFC are Australia, Canada, China, Chinese Taipei (Taiwan), Cook Islands, European Community, Federated States of Micronesia, Fiji, France, Japan, Kiribati, Korea, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Tonga, Tuvalu, United States, and Vanuatu. Certain territories also participate in the WCPFC as Participating Territories. The current Participating Territories are French Polynesia, New Caledonia and Wallis and Futuna (affiliated with France); Tokelau (affiliated with New Zealand); and American Samoa, the CNMI and Guam (affiliated with the United States).

As a Contracting Party to the Convention and a Member of the WCPFC, the United States is obligated to implement the decisions of the WCPFC. The WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the WCPFC. The WCPFC Implementation Act further provides that the Secretary of Commerce shall ensure consistency, to the extent practicable, of fishery management programs administered under the WCPFC Implementation Act and the Magnuson-Stevens Fishery Conservation and Management Act, as well as other specific laws (see 16 U.S.C. 6905(b)). The Secretary of Commerce has delegated the authority to promulgate regulations to NMFS.

WCPFC Decisions Regarding Bigeye Tuna Catch Limits in Longline Fisheries

The Convention calls for the WCPFC to adopt measures designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors. With respect to bigeye tuna, the WCPFC Scientific Committee found that the stock of bigeye tuna in the WCPO is experiencing a fishing mortality rate greater than the rate associated with maximum sustainable yield. Therefore, at its Fifth Regular Session, in December 2008, the WCPFC adopted Conservation and Management Measure (CMM) 2008–01, "Conservation and Management Measure for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean." The CMM and other decisions of the WCPFC can be found at *http://www.wcpfc.int/conservation-and-management-measures*. CMM 2008–01 has the stated objective of reducing, over the period 2009–2011, the fishing mortality rate for bigeye tuna in the WCPO by at least 30 percent from a specified historical baseline. Among other provisions, the CMM establishes specific catch limits for bigeye tuna captured in the longline fisheries of the WCPFC's Members, Participating Territories, and Cooperating Non-members for the years 2009, 2010, and 2011. The limits do not apply to Participating Territories or small island developing States undertaking responsible development of their domestic fisheries.

The prescribed catch limits in CMM 2008–01 are based on specified percentages of longline catches made during specified baseline periods. For the United States, the baseline period is 2004, with a corresponding catch of 4,181 metric tons (mt). Because the baseline for the U.S. longline fishery is less than 5,000 mt per year, and because the fishery lands exclusively fresh fish, the specified annual catch limit for the U.S. longline fishery is 90 percent of the amount caught during the baseline period for each of the years 2009, 2010, and 2011, or 3,763 mt. On December 7, 2009, NMFS issued a final rule to implement the longline bigeye tuna

elements of CMM 2008–01 (74 FR 63999). The rule, which became effective December 12, 2009, established the annual catch limit of 3,763 mt of bigeye tuna for U.S. longline fisheries for each of the years 2009, 2010, and 2011. On August 4, 2009, NMFS issued a separate rule to implement the purse seine-related provisions of CMM 2008–01 for 2009, 2010, and 2011 (74 FR 38544).

The WCPFC was scheduled to hold its Eighth Regular Session in early December 2011, to discuss, among other items, the provisions of CMM 2008–01, such as the bigeye tuna catch limits for longline fisheries, that were scheduled to expire at the end of calendar year 2011. However, the Eighth Regular Session was unexpectedly postponed until March 2012. Because of that postponement, the WCPFC made an intersessional decision on December 20, 2011, to extend CMM 2008–01 until the Eighth Regular Session could be held. NMFS issued an interim rule on December 30, 2011, extending the purse seine-related provisions of CMM 2008–01 (76 FR 82180). NMFS explained in that interim rule that longline-related provisions of the WCPFC's extension of CMM 2008–01 would be addressed in a separate rulemaking.

At its Eighth Regular Session, in March 2012, the WCPFC adopted a "Conservation and Management Measure for Temporary Extension of CMM 2008–01" (CMM 2011–01). This CMM extends most provisions of CMM 2008–01, including the longline bigeye tuna catch limits applicable to the United States, until February 28, 2013.

The Action

The purpose of this interim final rule is to implement the longline bigeye tuna provisions of CMM 2011–01. Accordingly, this interim final rule establishes a 2012 bigeye tuna catch limit in U.S. longline fisheries in the Convention Area as follows:

Establishment of the Limit

Under CMM 2011–01, the 2012 bigeye tuna catch limit for U.S. longline fisheries in the Convention Area in 2012 is 3,763 mt, the same amount as for each of 2009, 2010, and 2011. This limit applies only to U.S. longline fisheries other than those of American Samoa, Guam, and the CNMI.

As in CMM 2008–01, CMM 2011–01 includes longline fishery-related provisions specifically applicable to Participating Territories in the WCPFC, which include American Samoa, Guam, and the CNMI. The longline fisheries of Participating Territories are subject to annual bigeye tuna catch limits of 2,000 mt. Under the CMM, Participating Territories undertaking responsible development of their domestic fisheries are not subject to those annual limits. Because the limits under CMM 2011–01 for the longline fisheries of American Samoa, Guam, and CNMI far exceed the historical bigeye tuna catches in those fisheries, implementation of bigeye tuna catch limits for the U.S. Participating Territories is not included as part of this interim final rule to establish the U.S. catch limit of 3,763 mt, which needs to be established before the limit is reached.

For the purpose of this interim final rule, the longline fisheries of the three U.S. Participating Territories are distinguished from the other longline fisheries of the United States based on a combination of three factors: (1) Where the bigeye tuna are landed; (2) the types of Federal longline fishing permits registered to the fishing vessel; and (3) whether the fishing vessel is included in an arrangement under Section 113(a) of the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112–55, 125 Stat. 552 *et seq.*, (hereafter, CFCAA) enacted November 18, 2011).

With respect to the first factor, bigeye tuna landed by U.S. vessels in any of the three U.S. Participating Territories, with certain provisos, will be attributed to the longline fishery of that Participating Territory. The provisos are that: (1) The bigeye tuna must not be captured in the portion of the U.S. exclusive economic zone (EEZ) surrounding the Hawaiian Archipelago; and (2) they must be landed by a U.S. fishing vessel operated in compliance with one of the permits required under the regulations implementing the Fishery Ecosystem Plan for the Pacific Pelagic Fisheries of the Western Pacific Region (Pelagics FEP) developed by the Western Pacific Fishery Management Council (WPFMC) or the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species developed by the Pacific Fishery Management Council (i.e., a permit issued under 50 CFR 665.801 or 660.707).

With respect to the second factor, bigeye tuna that are captured by a fishing vessel registered for use under a valid American Samoa Longline Limited Access Permit will, subject to the provisos mentioned above, be attributed to the longline fishery of American Samoa, regardless of where that catch is landed. This distinction is made because American Samoa Longline Limited Access Permits are issued only to people that have demonstrated participation in the American Samoa pelagic fisheries, such that the catch may properly be attributed to that territory. The regulations implementing the bigeye tuna catch limits for 2009, 2010, and 2011 included these two above factors as well as the related provisos.

The third factor, which was not included in the regulations implementing the bigeye tuna catch limits in 2009, 2010, and 2011, relates to the CFCAA. Section 113(a) of the CFCAA authorizes the U.S. Participating Territories of the WCPFC to use, assign, allocate, and manage catch limits or fishing effort limits agreed to by the WCPFC through arrangements with U.S. vessels with permits issued under the Pelagics FEP. Section 113(a) further directs the Secretary of Commerce, for the purposes of annual reporting to the WCPFC, to attribute catches made by vessels operating under Section 113(a) arrangements to the U.S. Participating Territories. Section 113(a) establishes specific eligibility criteria for such arrangements (discussed further below), and this interim final rule establishes additional requirements and conditions that must be met in order for catches to be attributed to the U.S. Participating Territories. Under this interim final rule, bigeye tuna caught in 2012 by a vessel that is included in an arrangement determined to be eligible under Section 113(a) of the CFCAA will be attributed by NMFS to the appropriate U.S. Participating Territory, according to the procedures and conditions set forth below.

The longline fisheries of the United States and its territories operating in the WCPO are managed as discrete fisheries, with separate compilations of catch and effort statistics and separate management measures for each fishery. In order to allow for the orderly administration of these fisheries and a uniform manner of attributing catches to the fisheries of the U.S. Participating Territories under eligible Section 113(a) of the CFCAA arrangements, NMFS will wait to attribute catches under eligible Section 113(a) arrangements until the date the catch limit will be reached can be forecasted with a reasonable degree of certainty. Thereafter, NMFS will attribute catches to the fisheries of the U.S. Participating Territories under eligible Section 113(a) arrangements seven days before the date the U.S. catch limit is forecasted to be reached. This procedure will allow NMFS to properly administer and enforce the specific management requirements for each fishery throughout the year, consistent with the approved Pelagics FEP.

As in 2009, 2010, and 2011, NMFS will prepare forecasts during 2012 of the

date that the bigeye tuna catch limit is projected to be reached and will periodically make such forecasts widely available to the public, such as by posting on a Web site. All the forecasts prepared up until the time that catch attribution to the U.S. Participating Territories under Section 113(a) of the CFCAA actually begins will assume that there will be no such catch attribution to the U.S. Participating Territories. These forecasts will be subject to change as new information becomes available. Because of these potential changes, it is necessary to identify a particular forecast for the purpose of determining when catch attribution to the U.S. Participating Territories under eligible Section 113(a) arrangements will begin. For this purpose, NMFS will use the first forecast that indicates the catch limit will be reached within 28 days of the date of preparation of that forecast. The projected catch limit date in this forecast will be called, for the purpose of this interim final rule, the pre-Section 113(a) attribution forecast date. As soon as NMFS determines the pre-Section 113(a) attribution forecast date, NMFS will evaluate all Section 113(a) arrangements that it has received to date, based on the eligibility criteria specified below, and recalculate the forecast date for the catch limit, this time not counting as part of the tally of U.S. catches the catches to be attributed to the U.S. Participating Territories under eligible Section 113(a) arrangements. In order to allow NMFS a reasonable amount of time to complete this process, NMFS will begin attributing catches to the U.S. Participating Territories under eligible Section 113(a) arrangements seven days before the pre-Section 113(a) attribution forecast date. At that time, NMFS will also make publicly available a new forecast date on a Web site—the post-Section 113(a) attribution forecast date—and will update that forecast date as appropriate throughout 2012.

There will be no official due date for the receipt by NMFS of potentially eligible CFCAA Section 113(a) arrangements. However, NMFS will need 14 days to process arrangements that it receives, so for an arrangement received after the date that NMFS determines the pre-Section 113(a) attribution forecast date, attribution to the appropriate U.S. Participating Territory will start 14 days after NMFS has received the arrangement or seven days before the pre-Section 113(a) attribution forecast date, whichever date is later.

NMFS considered starting catch attribution to the U.S. Participating Territories under eligible CFCAA Section 113(a) arrangements only after the 3,763 mt catch limit is reached, in order to be consistent with past administration of the longline fisheries in the WCPO. However, given the time needed to process Section 113(a) arrangements and the time needed to put into effect the prohibitions once the 3,763 mt catch limit is reached, waiting until the catch limit is reached to begin attribution under arrangements with the U.S. Participating Territories could potentially cause public confusion and result in unnecessary costs in the fishery. For example, should attribution begin only after the catch limit is reached and the prohibitions go into effect, a vessel owner providing NMFS with an eligible arrangement a few days before the catch limit is reached would be subject to the prohibitions for a number of days while the arrangement is processed, even though the prohibitions would be later found not to apply to the vessel. Beginning attribution to the U.S. Participating Territories a short period before the pre-Section 113(a) attribution forecast date would help avoid the confusion and costs associated with such a situation. It could also have the advantage of avoiding, in certain circumstances, the administrative and other costs associated with putting the prohibitions into effect.

In order for NMFS to attribute to the longline fishery of a U.S. Participating Territory bigeye tuna caught by a particular vessel included in an arrangement under Section 113(a) of the CFCAA, certain requirements under this rule must be met. First, with the exception of existing arrangements received by NMFS prior to the effective date of this interim final rule, NMFS must have received from the vessel owner or designated representative a copy of the arrangement at least 14 days prior to the date the bigeye tuna was caught. In addition, the arrangement must satisfy specific criteria, discussed in detail in the section below, to ensure that it meets the requirements of an eligible arrangement under Section 113(a).

Section 113(a) of the CFCAA remains in effect until the earlier of December 31, 2012, or such time as the WPFMC recommends, and the Secretary approves, an amendment to the Pelagics FEP that would authorize U.S. Participating Territories to use, assign, allocate, and manage catch limits of highly migratory fish stocks, or fishing effort limits, established by the WCPFC, and the amendment is implemented via regulations. NMFS will take the status of that amendment into consideration in the development of the final rule for this action.

Any bigeye tuna attributed to the longline fisheries of American Samoa, Guam, or the CNMI as provided under this rule will not be counted against the U.S. limit. All other bigeye tuna captured by longline gear in the Convention Area by U.S. longline vessels and retained will be counted against the U.S. limit.

Eligible Arrangements

Under this interim final rule, an arrangement shall not be eligible for the attribution of bigeye tuna to the U.S. Participating Territories under the terms of Section 113(a) unless each of the following five criteria is met: (1) The arrangement must include vessels registered for use with valid permits issued under the Pelagics FEP; (2) the arrangement must impose no requirements regarding where the vessels fish or land their catch; (3) the arrangement must be signed by all the owners of the vessels included in the arrangement, or by their designated representative(s); (4) the arrangement must be signed by an authorized official of the U.S. Participating Territory(ies) or his or her designated representative(s); and (5) the arrangement must be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in a territory's Marine Conservation Plan adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act. If NMFS determines that an arrangement does not meet the criteria for eligibility, NMFS will notify the parties to the arrangement or their designated representative(s) within 14 days of receiving a copy of the arrangement.

NMFS is currently aware of one existing arrangement, between the Government of American Samoa and the Hawaii Longline Association (HLA), that is subject to Section 113(a) of the CFCAA. This arrangement is set to expire at the end of 2012. This interim final rule is not expected to materially affect implementation of this arrangement under Section 113.

The procedures and criteria for the attribution of bigeye tuna catch to the U.S. Participating Territories established in this interim final rule are applicable only for 2012. If the WCPFC adopts catch limits for bigeye tuna that are applicable in 2013 or beyond, NMFS will review and revise the requirements of this interim final rule when implementing those catch limits, as appropriate, to ensure consistency with

WCPFC decisions and all applicable law.

Announcement of the Limit Being Reached

If NMFS determines that the limit is expected to be reached before the end of 2012, NMFS will publish a notice in the **Federal Register** to announce specific fishing restrictions that will be effective from the date the limit is expected to be reached until the end of the 2012 calendar year. NMFS will publish the notice of the restrictions at least seven calendar days before the effective date to provide fishermen with advance notice. As stated above, periodic forecasts of the date the limit is expected to be reached will be made widely available to the public, such as by posting on a Web Site, to help fishermen plan for the possibility of the limit being reached.

Prohibited Activities After the Limit Is Reached

(1) Retain on board, transship, or land bigeye tuna: Starting on the effective date of the restrictions and extending through December 31, 2012, it will be prohibited to use a U.S. fishing vessel to retain on board, transship, or land bigeye tuna captured in the Convention Area by longline gear, except as follows:

First, any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and/or landed, provided that they are landed within 14 days after the restrictions become effective. A vessel that has declared to NMFS pursuant to 50 CFR 665.803(a) that the current trip type is shallow-setting is not subject to this 14-day landing restriction.

Second, bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they are captured by a fishing vessel registered for use under a valid American Samoa Longline Limited Access Permit or if they are landed in American Samoa, Guam, or the CNMI, with the following provisos: The bigeye tuna must not have been caught in the portion of the U.S. EEZ surrounding the Hawaiian Archipelago and must be landed by a U.S. fishing vessel operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801.

Third, bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they were caught by a vessel that is included in an eligible arrangement under Section 113(a) of the CFCAA, as specified above, and the bigeye tuna are subject to attribution to the longline fishery of American Samoa, Guam, or the CNMI in accordance with the terms of the arrangement, and to the extent consistent with the requirements and procedures established in this interim final rule, with the following proviso: NMFS must have received from the vessel owner or designated representative a copy of the arrangement at least 14 days prior to the activity (i.e., the retention on board, transshipment, or landing). The advance notification provision will not apply to existing arrangements received by NMFS prior to the effective date of this interim final rule.

(2) Transshipment of bigeye tuna to certain vessels: Starting on the effective date and extending through December 31, 2012, it will be prohibited to transship bigeye tuna caught in the Convention Area by longline gear to any vessel other than a U.S. fishing vessel operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801.

(3) Fishing inside and outside the Convention Area: To help ensure compliance with the restrictions related to bigeye tuna caught by longline gear in the Convention Area, this interim rule establishes two additional, related prohibitions that will be in effect starting on the effective date and extending through December 31, 2012. First, it will be prohibited to fish with longline gear both inside and outside the Convention Area during the same fishing trip, with the exception of a fishing trip that is in progress at the time the announced restrictions go into effect. In that exceptional case, the vessel will still be required to land any bigeye tuna taken in the Convention Area within 14 days of the effective date of the restrictions, as described above. Second, if a vessel is used to fish using longline gear outside the Convention Area and enters the Convention Area at any time during the same fishing trip, the longline gear on the fishing vessel must be stowed in a manner so as not to be readily available for fishing while the vessel is in the Convention Area. These two prohibitions do not apply to the following vessels: (1) Vessels on declared shallow-setting trips pursuant to 50 CFR 665.803(a); and (2) vessels operating for the purposes of this rule as part of the longline fisheries of American Samoa, Guam, or the CNMI (including vessels registered for use under valid American Samoa Longline Limited Access Permits; vessels landing their bigeye tuna catch in one of the three U.S. Participating Territories, so long as these vessels conduct fishing activities in accordance with the provisos described above; and vessels included in an eligible arrangement under Section 113(a) of the CFCAA, as specified above, provided that their catches of bigeye tuna are subject to attribution to the longline fishery of American Samoa, Guam, or the CNMI at the time of the activity).

Classification

The NMFS Assistant Administrator has determined that this interim rule is consistent with the WCPFC Implementation Act and other applicable laws.

Administrative Procedure Act

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and prior opportunity for public comment on this action, because those requirements are contrary to the public interest and impracticable. Because of the unexpected postponement of the Eighth Regular Session of the WCPFC due to a power outage in the host country, CMM 2011–01 was not agreed upon by the WCPFC as the replacement measure for CMM 2008–01 until March 30, 2012. Pursuant to CMM 2011–01, this rule establishes requirements applicable to U.S. fishing vessels that catch, retain, transship or land bigeye tuna in the Convention Area in 2012. Further delaying implementation of a WCPFC conservation and management measure intended to establish annual limits for a bigeye tuna stock that is subject to overfishing would be contrary to the public's interest because without implementation, there are no limits on U.S. longline bigeye tuna catches in the WCPO. Such a result would also violate NMFS' obligations under the Magnuson-Stevens Fishery Conservation and Management Act for the proper management of fishery resources and be inconsistent with the United States' international legal obligations.

Moreover, the requirements in this rule are substantially similar to the regulations established in 2009 that were applicable during the years 2009–2011 (to implement WCPFC CMM 2008–01). With the exception of the catch attribution provisions related to implementation of Section 113(a) of the CFCAA, all the requirements in this rule were subject to prior notice and opportunity for public comment in 2009 (proposed rule published July 8, 2009, 74 FR 32521; final rule published December 7, 2009, 74 FR 63999).

With respect to the catch attribution provisions related to implementation of Section 113(a) of the CFCAA, this interim final rule establishes a process allowing for the orderly administration of these fisheries and a uniform manner of attributing catches to the fisheries of the U.S. Participating Territories under

eligible Section 113(a) arrangements. Without waiving prior notice and prior opportunity for public comment on this interim final rule, it is unlikely that NMFS would be able to implement the requirements of Section 113(a) of the CFCAA prior to the annual limit established here being reached in 2012. As stated above, NMFS will determine the pre-Section 113(a) attribution forecast date for the catch limit as soon as the catch forecast indicates that the limit will be reached within 28 days. At that time, NMFS will begin the process to attribute bigeye tuna catch to the appropriate U.S. Participating Territories. A new forecast date—the post-Section 113(a) attribution forecast date—will be made publicly available on a Web site seven days before the pre-Section 113(a) attribution forecast date. If NMFS were to provide the public prior notice and an opportunity to comment on this rule before making effective this interim final rule, it is unlikely that NMFS would be able to establish the catch limit before the pre-Section 113(a) attribution forecast date is reached. Given the time generally needed to consider public comments and to prepare and to make effective a final rule incorporating those comments, NMFS would not be able to establish the process for attributing catch to the U.S. Participating Territories under eligible Section 113(a) arrangements before the pre-Section 113(a) attribution forecast date is determined in 2012. Additionally, the process for attribution under Section 113(a) arrangements could affect the behavior of the fishery prior to closure, and in this interim final rule NOAA provides guidance as early as possible so as to allow fishers to plan for the fishing season.

Finally, NMFS must implement the 2012 longline bigeye tuna catch limit in CMM 2011–01 before the limit is reached in order to satisfy international legal obligations and to ensure there is no gap in the implementation of important conservation measures for bigeye tuna in the Pacific Ocean, which is subject to overfishing.

Accordingly, we find that it would be contrary to the public interest and impracticable to the United States' ability to meet its international obligations to delay implementation of the catch limit provisions in order to hold a prior comment period on the CFCAA Section 113(a)-related provisions.

Therefore, NMFS finds it is impracticable and contrary to the public interest to provide prior notice and prior opportunity for public comment on this interim final rule. A comment period is provided by this interim final rule, and comments on the interim final rule will be considered prior to publication of the final rule.

Coastal Zone Management Act (CZMA)

NMFS has determined that this rule will be implemented in a manner consistent, to the maximum extent practicable, with the enforceable policies of the approved coastal zone management programs of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the State of Hawaii. This determination has been submitted for review by the responsible territorial and state agencies under section 307 of the CZMA.

Executive Order 12866

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

National Environmental Policy Act

NMFS prepared an EA and Supplemental EA in 2009 to evaluate the environmental effects of the implementation of the bigeye tuna catch limits for U.S. longline fisheries for 2009, 2010, and 2011. NMFS has prepared a Supplemental EA that builds upon the analyses in the 2009 EA and Supplemental EA, and evaluates the effects of this interim final rule on the human environment. NMFS has determined that there will be no significant impact on the human environment as a result of this interim final rule and an Environmental Impact Statement need not be prepared.

Regulatory Flexibility Act

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: August 21, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.222, paragraphs (bb) through (dd) are revised to read as follows:

§ 300.222 Prohibitions.

* * * * *

(bb) Use a fishing vessel to retain on board, transship, or land bigeye tuna captured by longline gear in the Convention Area or to fish in contravention of § 300.224(f)(1) or (f)(2).

(cc) Use a fishing vessel to fish in the Pacific Ocean using longline gear both inside and outside the Convention Area on the same fishing trip in contravention of § 300.224(f)(3).

(dd) Fail to stow longline gear as required in § 300.224(f)(4).

■ 3. Section 300.224 is revised to read as follows:

§ 300.224 Longline fishing restrictions.

(a) *Establishment of bigeye tuna catch limit.* There is a limit of 3,763 metric tons of bigeye tuna that may be captured in the Convention Area by longline gear and retained on board by fishing vessels of the United States during the 2012 calendar year.

(b) *Exception for bigeye tuna landed in territories.* Bigeye tuna landed in American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands will be attributed to the longline fishery of the territory in which it is landed and will not be counted against the limit established under paragraph (a) of this section, provided that:

(1) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago; and

(2) The bigeye tuna were landed by a fishing vessel operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(c) *Exception for bigeye tuna caught by vessels with American Samoa Longline Limited Access Permits.* Bigeye tuna caught by a vessel registered for use under a valid American Samoa Longline Limited Access Permit issued under § 665.801(c) of this title will be attributed to the longline fishery of American Samoa and will not be counted against the limit established under paragraph (a) of this section, provided that:

(1) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago; and

(2) The bigeye tuna were landed by a fishing vessel operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(d) *Exception for bigeye tuna caught by vessels included in Section 113(a) arrangements.* Bigeye tuna caught in 2012 by a vessel that is included in an arrangement under the authorization of Section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, will be attributed to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, according to the terms of the arrangement to the extent they are consistent with this section and applicable law, and will not be counted against the limit, provided that:

(1) NMFS has received a copy of the arrangement from the vessel owner or a designated representative at least 14 days prior to the date the bigeye tuna was caught, except that this requirement shall not apply to any arrangement provided to NMFS prior to the effective date of this paragraph;

(2) The bigeye tuna was caught on or after the "start date" specified in paragraph (g)(2) of this section; and

(3) NMFS has determined that the arrangement satisfies the requirements of Section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, in accordance with the criteria specified in paragraph (g)(3) of this section.

(e) *Announcement of catch limit being reached and fishing prohibitions.* NMFS will monitor retained catches of bigeye tuna with respect to the limit established under paragraph (a) of this section using data submitted in logbooks and other available information. After NMFS determines that the limit is expected to be reached by a specific future date, and at least seven calendar days in advance of that specific future date, NMFS will publish a notice in the **Federal Register** announcing that specific prohibitions will be in effect starting on that specific future date and ending December 31, 2012.

(f) *Prohibitions after catch limit is reached.* Once an announcement is made pursuant to paragraph (e) of this section, the following restrictions will apply during the period specified in the announcement:

(1) A fishing vessel of the United States may not be used to retain on board, transship, or land bigeye tuna captured by longline gear in the Convention Area, except as follows:

(i) Any bigeye tuna already on board a fishing vessel upon the effective date of the prohibitions may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that they are landed within 14 days after the prohibitions become effective. The 14-day landing requirement does not apply to a vessel that has declared to NMFS, pursuant to § 665.803(a) of this title, that the current trip type is shallow-setting.

(ii) Bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they are landed in American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, provided that:

(A) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago;

(B) Such retention, transshipment, and/or landing is in compliance with applicable laws and regulations; and

(C) The bigeye tuna are landed by a fishing vessel operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(iii) Bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they are caught by a vessel registered for use under a valid American Samoa Longline Limited Access Permit issued under § 665.801(c) of this title, provided that:

(A) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago;

(B) Such retention, transshipment, and/or landing is in compliance with applicable laws and regulations; and

(C) The bigeye tuna are landed by a fishing vessel operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(iv) Bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they were caught by a vessel that is included in an arrangement under the authorization of Section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, if the arrangement provides for the bigeye tuna when caught to be attributed to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, provided that:

(A) NMFS has received a copy of the arrangement at least 14 days prior to the activity (i.e., the retention on board, transshipment, or landing), unless NMFS has received a copy of the arrangement prior to the effective date of this section;

(B) The "start date" specified in paragraph (g)(2) of this section has occurred or passed; and

(C) NMFS has determined that the arrangement satisfies the requirements of Section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, in accordance with the criteria specified in paragraph (g)(3) of this section.

(2) Bigeye tuna caught by longline gear in the Convention Area may not be transshipped to a fishing vessel unless that fishing vessel is operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(3) A fishing vessel of the United States, other than a vessel that catches bigeye tuna catch that is to be attributed to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands in accordance with paragraphs (b), (c), or (d) of this section, or a vessel for which a declaration has been made to NMFS, pursuant to § 665.803(a) of this title, that the current trip type is shallow-setting, may not be used to fish in the Pacific Ocean using longline gear both inside and outside the Convention Area during the same fishing trip, with the exception of a fishing trip during which the prohibitions were put into effect as announced under paragraph (e) of this section, in which case the bigeye tuna on board the vessel may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that they are landed within 14 days after the prohibitions become effective.

(4) If a fishing vessel of the United States, other than a vessel that catches bigeye tuna catch that is to be attributed to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, in accordance with paragraphs (b), (c), and (d) of this section, or a vessel for which a declaration has been made to NMFS, pursuant to § 665.803(a) of this title, that the current trip type is shallow-setting, is used to fish in the Pacific Ocean using longline gear outside the Convention Area and the vessel enters the Convention Area at any time during the same fishing trip, the longline gear on the fishing vessel must, while in the Convention Area, be stowed in a manner so as not to be readily available for fishing; specifically, the hooks, branch or dropper lines, and floats used to buoy the mainline must be stowed and not available for immediate use, and any power-operated mainline hauler on deck must be covered in such

a manner that it is not readily available for use.

(g) *Procedures and conditions for Section 113(a) arrangements.* This paragraph establishes procedures to be followed and conditions that must be met with respect to arrangements authorized under Section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012. These procedures and conditions apply to paragraphs (d), (f)(1)(iv), (f)(3), and (f)(4) of this section.

(1) For the purpose of this section, the "pre-Section 113(a) attribution forecast date" is the date the catch limit established under paragraph (a) of this section is forecast by NMFS to be reached, assuming that no catches would be attributed to the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands under arrangements authorized under Section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012. Since forecasts are subject to change as new information becomes available, NMFS will use for this purpose the first forecast it prepares that indicates that the date of the limit being reached is less than 28 days after the date the forecast is prepared.

(2) For the purpose of this section, the "start date" for attribution of catches to the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands for a particular arrangement is:

(i) For arrangements copies of which are received by NMFS no later than the date NMFS determines the pre-Section113(a) attribution forecast date, seven days before the pre-Section 113(a) attribution forecast date; and

(ii) For arrangements copies of which are received by NMFS after the date NMFS determines the pre-Section 113(a) attribution forecast date, 14 days after the date that NMFS receives a copy of the arrangement or seven days before the pre-Section 113(a) attribution forecast date, whichever is later.

(3) NMFS will determine whether an arrangement satisfies the requirements of Section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, for the attribution of bigeye tuna to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands according to the following criteria:

(i) Vessels included under the arrangement must be registered for use with valid permits issued under the Fishery Ecosystem Plan for Pacific Pelagic Fisheries of the Western Pacific Region;

(ii) The arrangement must not impose any requirements regarding where the vessels included in the arrangement fish or land their catch;

(iii) The arrangement must be signed by the owners of all the vessels included in the arrangement or their designated representative(s);

(iv) The arrangement must be signed by an authorized official of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands or his or her designated representative(s); and

(v) The arrangement must be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in the Marine Conservation Plan of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) NMFS will notify the parties to the arrangement or their designated representative(s) within 14 days of receiving a copy of the arrangement, if the arrangement does not meet the criteria specified in paragraph (g)(3) of this section.

[FR Doc. 2012–21092 Filed 8–24–12; 8:45 am]

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Proposed Rules

Federal Register
Vol. 77, No. 166
Monday, August 27, 2012

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0858; Directorate Identifier 2011–NM–183–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain Airbus Model A300 B4–2C, B4–103, and B4–203 airplanes; and Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, and B4–622R airplanes. The existing AD currently requires performing a one-time detailed visual inspection of the forward fitting at frame (FR) 40 on both sides of the airplane for cracks, and repair if necessary. Since we issued that AD, we have received reports that new cracks were found in the FR 40 forward fitting. This proposed AD would require repetitive detailed inspections of the forward fitting at FR 40 without nut removal, and a one-time eddy current or liquid penetrant inspection of the forward fitting at FR 40 with nut removal, and repair if necessary. We are proposing this AD to detect and correct cracking of the FR 40 forward fitting, which could result in a deterioration of the structural integrity of the frame.

DATES: We must receive comments on this proposed AD by October 11, 2012.

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

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

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–0858; Directorate Identifier 2011–NM–183–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On March 4, 2010, we issued AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010), we have received reports that additional cracks have been found after the modification had been completed. In addition, new inspections have been added to address the unsafe condition. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0163, dated August 30, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> One A300–600 aeroplane operator reported that, during a routine inspection, a crack was found in the right hand frame (FR) 40 forward fitting between stringer 32 and stringer 33. The subject aeroplane had previously been modified in accordance with Airbus SB A300–57–6053 (Mod. 10453).
>
> Therefore and pending completion of the full analysis using a refined Finite Element Model, EASA issued AD 2009–0094 [which corresponds with FAA AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)] to require a one-time Detailed Visual Inspection (DVI) of the post-SB A300–57–6053 A300–600 aeroplanes and post-SB A300–53–0297 A300 aeroplanes in order to ensure the structural integrity of frame 40.
>
> During a recent maintenance check, on two aeroplanes (one A300B4 and one A300–600), cracks were found in the FR 40 forward fitting.
>
> These new crack findings are considered as unexpected, since they were found after:
>
> —Application of modification SB A300–57–6053 or SB A300–53–0297 which cancels the inspection programme, and
>
> —Accomplishment of EASA AD 2009–0094.
>
> For the reasons described above, this new [EASA] AD, which supersedes EASA AD 2009–0094, requires repetitive DVI of the FR 40 forward fitting (without nut removal), accomplishment of a one time Eddy Current

(EC) inspection or liquid penetrant inspection of this area (with nut removal) and, depending on findings, the accomplishment of associated corrective action (repair if any cracking found). Passing the EC or liquid penetrant inspection constitutes terminating action for the repetitive DVI.

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

Relevant Service Information

Airbus has issued All Operator Telex A300–53A0391, dated August 9, 2011 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); and All Operator Telex A300–57A6111, dated August 9, 2011 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 134 products of U.S. registry.

The actions that are required by AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010), and retained in this proposed AD take about 3 work-hours per product, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required actions is $255 per product.

We estimate that it would take about 3 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $34,170, or $255 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010), and adding the following new AD:

Airbus: Docket No. FAA–2012–0858; Directorate Identifier 2011–NM–183–AD.

(a) Comments Due Date

We must receive comments by October 11, 2012.

(b) Affected ADs

This AD supersedes AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010).

(c) Applicability

This AD applies to Airbus airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD. For airplanes on which Airbus Service Bulletin A300–53–0297 or A300–57–6053 (Airbus Modification 10453), as applicable, have been incorporated as a corrective action (repair following crack finding), no action is required by this AD.

(1) Model A300 B4–2C, B4–103, and B4–203 airplanes, all serial numbers, modified preventively in service (without any preliminary crack findings) as specified in Airbus Service Bulletin A300–53–0297 (Airbus Modification 10453).

(2) Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes, all serial numbers, modified preventively in service (without any preliminary crack findings) as specified in Airbus Service Bulletin A300–57–6053 (Airbus Modification 10453).

(d) Subject

Air Transport Association (ATA) of America Code 53, 57: Fuselage, Wings.

(e) Reason

This AD was prompted by reports that cracks were found in the frame (FR) 40 forward fitting. We are issuing this AD to detect and correct cracking of the FR 40 forward fitting, which could result in a deterioration of the structural integrity of the frame.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Retained Detailed Inspection

This paragraph restates the actions required by paragraphs (f)(1), (f)(2), and (f)(3) of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010).

(1) At the applicable time specified in table 1 to paragraph (g)(1) of this AD: Do a one-time detailed visual inspection of the forward fitting at FR 40 on both sides of the airplane, in accordance with Airbus Mandatory Service Bulletin A300–57A6108 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes) or A300–53A0387 (for Model A300 B4–2C, B4–103, and B4–203 airplanes), both including

Appendices 01 and 02, both dated September 12, 2008.

TABLE 1 TO PARAGRAPH (g)(1) OF THIS AD—COMPLIANCE TIMES

Airplane models/configuration	Compliance time
A300 B4–2C and B4–103 airplanes on which Airbus Service Bulletin A300–53–0297 was done prior to the accumulation of 9,000 total flight cycles.	Prior to the accumulation of 18,000 total flight cycles, or within 3 months after April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)), whichever occurs later.
A300 B4–2C and B4–103 airplanes on which Airbus Service Bulletin A300–53–0297 was done on or after the accumulation of 9,000 total flight cycles.	Within 5,500 flight cycles after accomplishment of Airbus Service Bulletin A300–53–0297, or within 6 months after April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)), whichever occurs later; except, for airplanes that, as of April 15, 2010 (the effective date of AD 2010–06–05), have accumulated 11,000 flight cycles or more since accomplishment of Airbus Service Bulletin A300–53–0297, within 3 months after April 15, 2010 (the effective date of AD 2010–06–05).
A300 B4–203 airplanes on which Airbus Service Bulletin A300–53–0297 was done prior to the accumulation of 8,300 total flight cycles.	Prior to the accumulation of 15,000 total flight cycles, or within 3 months after April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)), whichever occurs later.
A300 B4–203 airplanes on which Airbus Service Bulletin A300–53–0297 was done on or after the accumulation of 8,300 total flight cycles.	Within 4,100 flight cycles after accomplishment of Airbus Service Bulletin A300–53–0297, or within 6 months after April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)), whichever occurs later; except, for airplanes that, as of April 15, 2010 (the effective date of AD 2010–06–05), have accumulated 8,200 flight cycles or more since accomplishment of Airbus Service Bulletin A300–53–0297, within 3 months after April 15, 2010 (the effective date of AD 2010–06–05).
A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes on which Airbus Service Bulletin A300–57–6053 was done prior to the accumulation of 6,100 total flight cycles.	Prior to the accumulation of 11,500 total flight cycles, or within 3 months after April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)), whichever occurs later.
A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes on which Airbus Service Bulletin A300–57–6053 was done on or after the accumulation of 6,100 total flight cycles.	Within 3,300 flight cycles after accomplishment of Airbus Service Bulletin A300–57–6053, or within 6 months after April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)), whichever occurs later; except, for airplanes that, as of April 15, 2010 (the effective date of AD 2010–06–05), have accumulated 6,600 flight cycles or more since accomplishment of Airbus Service Bulletin A300–57–6053, within 3 months after April 15, 2010 (the effective date of AD 2010–06–05).

(2) Except as required by paragraph (g)(3) of this AD: If any crack is found during the inspection required by paragraph (g)(1) of this AD, before further flight, do a temporary or definitive repair, as applicable, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–0268, Revision 06, dated January 7, 2002 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); or A300–57–6052, Revision 03, dated May 27, 2002, including Airbus Drawings 15R53810394, Issue A, dated December 21, 1998, and 21R57110247, Issue A, dated June 20, 1997 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes).

(3) If any crack found during the inspection required by paragraph (g)(1) of this AD cannot be repaired in accordance with Airbus Service Bulletin A300–53–0268, Revision 06, dated January 7, 2002 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); or A300–57–6052, Revision 03, dated May 27, 2002 including Airbus Drawings 15R53810394, Issue A, dated December 21, 1998, and 21R57110247, Issue A, dated June 20, 1997 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes): Contact Airbus for repair instructions and, before further flight, repair the crack using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent).

(h) Retained Reporting Requirement

This paragraph restates the requirements of paragraph (f)(4) of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010). Submit an inspection report in accordance with Appendix 01 of Airbus Mandatory Service Bulletin A300–53A0387, including Appendices 01 and 02, dated September 12, 2008 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); or Airbus Mandatory Service Bulletin A300–57A6108, including Appendices 01 and 02, dated September 12, 2008 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes); to the address identified on the reporting sheet, at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD.

(1) If the inspection was done on or after April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)): Submit the report within 30 days after the inspection.

(2) If the inspection was done before April 15, 2010 (the effective date of AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010)): Submit the report within 30 days after April 15, 2010 (the effective date of AD 2010–06–05).

(i) New Requirement: Repetitive Detailed Visual Inspections

Within 300 flight cycles after the effective date of this AD: Perform a detailed inspection for cracks of the forward fitting at FR 40 without nut removal on both sides of the airplane, in accordance with Airbus All Operator Telex A300–53A0391, dated August 9, 2011 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); or Airbus All Operator Telex A300–57A6111, dated August 9, 2011 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes). Thereafter, repeat the inspection at intervals not to exceed 300 flight cycles.

(j) New Requirement: Eddy Current Inspection or Liquid Penetrant Inspection

Within 36 months after the effective date of this AD: Perform an eddy current inspection or a liquid penetrant inspection for cracks of the forward fitting at FR 40 with nut removal on both sides of the airplane, in accordance with Airbus All Operator Telex A300–53A0391, dated August 9, 2011 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); or Airbus All Operator Telex A300–57A6111, dated August 9, 2011 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes).

(k) New Requirement: Corrective Action

If, during any inspection required by paragraph (i) or (j) of this AD, any crack is detected: Before further flight, repair the crack in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA (or its delegated agent).

(l) New Requirement: Reporting Requirement

Submit a one-time report of the findings (both positive and negative) of the inspections required by paragraphs (i) and (j) of this AD to Airbus, Sebastien Faure, SEES1, SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 31 68; fax +33 5 61 93 36 14; email *sebastien.s.faure@airbus.com*, at the applicable time specified in paragraph (l)(1) or (l)(2) of this AD.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(m) New Requirement: Terminating Action

Accomplishment of the one-time eddy current inspection or a liquid penetrant inspection required by paragraph (j) of this AD, including doing all applicable repairs, constitutes terminating action for the inspections required by paragraph (f) of this AD.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–2125; fax: (425) 227–1149; email: *Dan.Rodina@faa.gov*. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2010–06–05, Amendment 39–16229 (75 FR 11435, March 11, 2010), are approved as AMOCs for the corresponding provisions of this AD.

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

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

(o) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2011–0163, dated August 30, 2011, and the service information in paragraphs (o)(1)(i) through (o)(1)(vi) of this AD, for related information.

(i) Airbus All Operator Telex A300–53A0391, dated August 9, 2011.

(ii) Airbus All Operator Telex A300–57A6111, dated August 9, 2011.

(iii) Airbus Mandatory Service Bulletin A300–57A6108, including Appendices 01 and 02, dated September 12, 2008.

(iv) Airbus Mandatory Service Bulletin A300–53A0387, including Appendices 01 and 02, dated September 12, 2008.

(v) Airbus Service Bulletin A300–53–0268, Revision 06, dated January 7, 2002.

(vi) Airbus Service Bulletin A300–57–6052, Revision 03, dated May 27, 2002, including Airbus Drawings 15R53810394, Issue A, dated December 21, 1998, and 21R57110247, Issue A, dated June 20, 1997.

(2) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 17, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–20966 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0860; Directorate Identifier 2012–NM–123–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –800, and –900ER series airplanes. This proposed AD was prompted by incorrect wire support clamps installed within the left environmental cooling systems (ECS) bay, which could allow wiring to come in contact with the exposed metal of the improper clamp. This proposed AD would require inspections to identify the part number of the wire support clamp, related investigative actions, and corrective actions if necessary. We are proposing this AD to prevent electrical arcing and a potential ignition source, which in combination with flammable fuel vapors could result in a fuel tank explosion, and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by October 11, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601

Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6482; fax: 425–917–6590; email: *georgios.roussos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–0860; Directorate Identifier 2012–NM–123–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We reviewed reports of incorrect wire support clamps installed within the left ECS bay, which is a flammable leakage zone. Use of incorrect wire support clamps that are not fully cushioned could allow electrical power wiring to come in contact with the exposed metal of the improper clamp. Power wiring shorts to the exposed metal of the wire support clamp could produce electrical arcing. We are proposing this AD to prevent electrical arcing and a potential ignition source, which in combination with flammable fuel vapors, could result in a fuel tank explosion, and consequent loss of the airplane.

Relevant Service Information

We reviewed Boeing Special Attention Service Bulletin 737–28–1303, dated April 26, 2012. The service information describes procedures for a detailed inspection of certain wire support clamps to identify part number TA0930034–10 wire support clamp and related investigative actions to verify that the flange cushions completely surround the two metal strap sections of the wire support clamp and to detect any possible chafing of the wire bundle within the left side ECS bay, and corrective actions if necessary. Corrective actions include replacing the discrepant clamp with a new or serviceable TA0930034–10 wire support clamp if the part number is incorrect or if the flange cushions do not completely surround the two metal strap sections of the wire support clamp, and repairing or replacing chafed wiring.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 297 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of airplanes	Cost on U.S. operators
Inspection Group 1 airplanes	10 work-hours × $85 per hour = $850.	$0	$850	185	$157,250
Inspection Group 2 airplanes	2 work-hours × $85 per hour = $170	0	170	112	19,040

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of wire support clamp	1 work-hour × $85 per hour = $85	$3	$88

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

We have received no definitive data that would enable us to provide cost estimates for the on-condition repair of chafed or damaged wiring specified in this proposed AD.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701:

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2012–0860; Directorate Identifier 2012–NM–123–AD.

(a) Comments Due Date

We must receive comments by October 11, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, -700, -800, and -900ER series airplanes; certificated in any category; as identified in Boeing Special Attention Service Bulletin 737–28–1303, dated April 26, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 28, Fuel System.

(e) Unsafe Condition

This AD was prompted by incorrect wire support clamps installed within the left environmental cooling systems (ECS) bay, which could allow wiring to come in contact with the exposed metal of the improper clamp. We are issuing this AD to prevent electrical arcing and a potential ignition source, which in combination with flammable fuel vapors could result in a fuel tank explosion, and consequent loss of the airplane.

(f) Compliance

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

(g) Inspection and Corrective Actions

Within 60 months after the effective date of this AD, do a detailed inspection for part number TA0930034–10 wire support clamp, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–28–1303, dated April 26, 2012. Do all applicable related investigative and corrective actions before further flight.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a wire support clamp that is not part number (P/N) TA0930034–10 within the left ECS bay of any airplane.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6482; fax: 425–917–6590; email: *georgios.roussos@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 17, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–20967 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0859; Directorate Identifier 2012–NM–090–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; rescission.

SUMMARY: We propose to rescind an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 737–600, –700, –700C, –800 and –900 series airplanes; and Model 757–200, –200PF, –200CB, and –300 series airplanes. The existing AD currently requires inspecting to determine if certain motor-operated shutoff valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. The existing AD also requires revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28–AWL–21, No. 28–AWL–22, and No. 28–AWL–24 (for Model 737–600, –700, –700C, –800 and –900 series airplanes); and No. 28–AWL–23, No. 28–AWL–24, and No. 28–AWL–25 (for Model 757–200, –200PF, –200CB, and –300 series airplanes). We issued that AD to prevent electrical energy from lightning, hot shorts, or fault current from entering the fuel tank through the actuator shaft, which could result in fuel tank

explosions and consequent loss of the airplane. Since we issued that AD, we have received new data indicating that the existing AD addresses that safety concern, but also introduces a different unsafe condition.

DATES: We must receive comments on this proposed AD by October 11, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6509; fax: (425) 917–6590; email: *Rebel.Nichols@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–0859; Directorate Identifier 2012–NM–090–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On February 28, 2008, we issued AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008), for certain The Boeing Company Model 737–600, –700, –700C, –800 and –900 series airplanes; and Model 757–200, –200PF, –200CB, and –300 series airplanes. That AD requires inspecting to determine if certain motor-operated shutoff valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. That AD also requires revising the AWL section of the Instructions for Continued Airworthiness to incorporate AWL No. 28–AWL–21, No. 28–AWL–22, and No. 28–AWL–24 (for Model 737–600, –700, –700C, –800 and –900 series airplanes); and No. 28–AWL–23, No. 28–AWL–24, and No. 28–AWL–25 (for Model 757–200, –200PF, –200CB, and –300 series airplanes). That AD resulted from a design review of the fuel tank systems. We issued that AD to prevent electrical energy from lightning, hot shorts, or fault current from entering the fuel tank through the actuator shaft, which could result in fuel tank explosions and consequent loss of the airplane.

Actions Since Existing AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008) Was Issued

Since we issued AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008), we discovered that the corrective action addresses that safety concern, but also introduces a different unsafe condition. The manufacturer is developing a more complete solution to address both unsafe conditions. We will consider additional rulemaking to require a new solution once that solution is developed, approved, and available for accomplishment.

FAA's Conclusions

Upon further consideration, we have determined that existing AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008), must be rescinded. Accordingly, this proposed AD would rescind AD 2008–06–03. Rescission of AD 2008–06–03 would not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Related Costs

AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008), affects about 1,406 airplanes of U.S. registry. The estimated cost of the currently required actions for U.S. operators was $112,480 per inspection, and $337,440 per AWL revision; or $80 per inspection, and $240 per AWL revision, per airplane. Rescinding AD 2008–06–03 would eliminate those costs.

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

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

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

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

(3) Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008), and adding the following new AD:

The Boeing Company: Docket No. FAA–2012–0859; Directorate Identifier 2012–NM–090–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by October 11, 2012.

Affected ADs

(b) This action rescinds AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008).

Applicability

(c) This action applies to The Boeing Company Model 737–600, –700, –700C, –800 and –900 series airplanes; and Model 757–200, –200PF, –200CB, and –300 series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletins 737–28A1207, dated February 15, 2007, and 757–28A0088, dated January 25, 2007.

Issued in Renton, Washington, on August 17, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–20968 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0258; Directorate Identifier 2010–NM–191–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. That NPRM proposed to require, for certain airplanes, installing two warning level indicator lights on each of the P1–3 and P3–1 instrument panels in the flight compartment. That NPRM also proposed to require revising the airplane flight manual to remove certain requirements of previous AD actions, and to advise the flightcrew of the following changes: revised non-normal procedures to use when a cabin altitude warning or rapid depressurization occurs, and revised cabin pressurization procedures for normal operations. That NPRM was prompted by a design change in the cabin altitude warning system that would address the identified unsafe condition. This action revises that NPRM by adding airplanes to the applicability; adding airplanes to the installation requirement, including, for certain airplanes, replacing the existing P5–16 and P5–10 panels; and, for certain airplanes, replacing the basic P5–16 panel with a high altitude landing P5–16 panel. We are proposing this supplemental NPRM to prevent failure of the flightcrew to recognize and react to a valid cabin altitude warning horn, which could result in incapacitation of the flightcrew due to hypoxia (lack of oxygen in the body), and consequent loss of control of the airplane. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by October 11, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6472; fax: (425) 917–6590; email: *jeffrey.w.palmer@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0258; Directorate Identifier 2010–NM–191–AD" at the beginning of your comments. We specifically invite

comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. That NPRM published in the **Federal Register** on March 24, 2011 (76 FR 16579). That NPRM proposed to require installing two warning level indicator lights on each of the P1–3 and P3–1 instrument panels in the flight compartment. That NPRM also proposed to require revising the airplane flight manual to remove certain requirements of previous AD actions, and to advise the flightcrew of the following changes: Revised non-normal procedures to use when a cabin altitude warning or rapid depressurization occurs, and revised cabin pressurization procedures for normal operations.

Actions Since Previous NPRM (76 FR 16579, March 24, 2011) Was Issued

Since we issued the previous NPRM (76 FR 16579, March 24, 2011), we have determined that additional airplanes are affected by the identified unsafe condition, the installation of two warning level indicator lights must be done on additional airplanes (i.e., airplanes with the high altitude landing configuration of the cabin altitude warning system), and for certain airplanes, a replacement of the basic P5–16 panel with a high altitude landing P5–16 panel must be done. And for certain other airplanes replacement of the existing P5–16 and P5–10 panels must be done.

Revised Service Information

We have reviewed Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012. The previous NPRM (76 FR 16579, March 24, 2011), referred to Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010, as the appropriate source of service information for doing the proposed actions. Boeing has revised this service information to add airplanes to the effectivity (including the airplanes that were identified in table 1 of the previous NPRM) and clarify certain actions and figures. We have changed paragraph (c) of this supplemental NPRM to refer to the airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012. We have also included Revision 3 as the appropriate source of service information for accomplishing the required actions of this supplemental NPRM. We have also included credit for actions accomplished using Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010; or Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011; provided certain actions have been done on certain airplanes.

Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012, includes concurrent accomplishment of Boeing Service Bulletin 737–21–1171, dated February 12, 2009, for certain airplanes. Boeing Service Bulletin 737–21–1171, dated February 12, 2009, describes procedures for replacing the basic P5–16 panel with a high altitude landing P5–16 panel.

Related Rulemaking

On August 7, 2009, we issued AD 2009–16–07, Amendment 39–15990 (74 FR 41607, August 18, 2009), for certain Model 737–600, –700, –700C, –800, and –900 series airplanes. That AD requires replacing brackets that hold the P5 panel to the airplane structure, the standby compass bracket assembly, the generator drive and standby power module, and the air conditioning module. That AD also requires among other actions, inspecting for wire length and for damage of the connectors and the wire bundles and doing applicable corrective actions if necessary. That AD also requires an additional operational test of the P5–14 panel.

For airplanes on which the modification specified in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010; or Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011; was done, those actions could result in non-compliance with the actions required by AD 2009–16–07, Amendment 39–15990 (74 FR 41607, August 18, 2009). For airplanes on which the modification in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012, was done, those actions comply with the actions required by AD 2009–16–07. In light of these factors, operators should ensure compliance with AD 2009–16–07.

Comments

We gave the public the opportunity to comment on the previous NPRM (76 FR 16579, March 24, 2011). The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for NPRM (76 FR 16579, March 24, 2011)

Air Line Pilot's Association International supports the previous NPRM (76 FR 16579, March 24, 2011).

Request To Extend Compliance Time

American Airlines (AAL) stated that it started a program for accomplishing the actions specified in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010. AAL added that adoption of a 36-month accomplishment schedule will result in six airplanes on which the actions cannot be completed during its normal heavy maintenance schedule; therefore, a special higher-cost visit will have to be scheduled for those airplanes. AAL noted that the current flight manual procedures will remain in place until all airplanes are modified. We infer that AAL is asking that the compliance time be extended to coincide with its normal heavy maintenance schedule.

We partially agree with the commenter.

We agree with the commenter's intention to keep its current flight manual procedures in place until all airplanes in its fleet have been modified. This will maintain continuous standardization of operating procedures across the operator's fleet, allowing operation of all airplanes in its fleet under one common set of operating procedures at all times. Since the previous NPRM (76 FR 16579, March 24, 2011) proposed to require airplane flight manual changes before further flight after accomplishing the required airplane modification, increasing the compliance time requirement for the airplane flight manual changes is necessary in order to allow operators the ability to provide this standardization of operating procedures. We have determined that since all airplanes are required to be modified within 36 months, those airplanes must also have the required airplane flight manual changes incorporated within the same time frame, but not before the required airplane modifications have been accomplished. We have increased the compliance time for the airplane flight manual revision required by paragraph (j) of this supplemental NPRM to within 36 months after the effective date of this AD and after doing the airplane

modifications required by paragraph (g) of this AD.

We do not agree to increase the compliance time for the modification. We acknowledge that in some cases it may be necessary to accomplish AD requirements outside of normal maintenance schedules and that additional cost can be incurred. However, we performed a risk assessment which indicates that a 36-month compliance time for accomplishing the modification is the longest acceptable compliance time allowed, in order to provide continued operational safety. In developing an appropriate compliance time, we considered the safety implications and normal maintenance schedules for timely accomplishment of the actions. In light of this, we have determined that a 36-month interval is appropriate. Under the provisions of paragraph (m)(1) of the supplemental NPRM, we will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the extension would provide an acceptable level of safety. We have made no change to the compliance time requirement in paragraph (g) of the supplemental NPRM.

Delta Airlines (DAL) asked that the previous NPRM (76 FR 16579, March 24, 2011) include a provision specifying that airplanes on which Boeing Alert Service Bulletin 737–31A1332, dated January 7, 2010, has been done are in compliance with the proposed requirements. DAL stated that Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010, indicates that no more work is necessary on airplanes changed in accordance with the original issue of that service bulletin. DAL added that although it has not done the actions in Boeing Alert Service Bulletin 737–31A1332, dated January 7, 2010, there may be other operators that have. DAL suggested that the previous NPRM include a paragraph to address those airplanes.

We do not agree with the commenter. Boeing Alert Service Bulletin 737–31A1332, dated January 7, 2010, was only approved for use on one airplane to validate the Accomplishment Instructions. That validation revealed that extensive corrections to the instructions were necessary to accomplish the modification; therefore, it did not receive FAA approval for fleetwide use. In light of this, no credit is allowed for prior accomplishment of the actions required by this supplemental NPRM using Boeing Alert Service Bulletin 737–31A1332, dated January 7, 2010. If any operators incorporated the actions specified in Boeing Alert Service Bulletin 737–31A1332, dated January 7, 2010, affected operators may request an alternative method of compliance (AMOC) under the provisions of paragraph (m)(1) of this supplemental NPRM by submitting data substantiating that the change would provide an acceptable level of safety. We have not changed the supplemental NPRM in this regard.

Request To Clarify Certain Notes in the Service Information

DAL asked that we clarify the instructions in certain notes specified in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010. DAL stated that paragraph (g) of the previous NPRM (76 FR 16579, March 24, 2011) requires operators to install warning level indicator lights in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010. DAL added that Figure 1, Note (b), and Figure 2, Note (b) of that service bulletin specify that operators can get the new part by reworking the existing part; Figure 3, Notes (a) and (b) also specify reworking the panels. DAL noted that these figures specify that the rework is done by using the procedures in the referenced BAE Systems service bulletins. DAL added that Figure 1, Note (b) states "You can get the new part by reworking the existing part as given in BAE Systems SB 233A2221–31–01, BAE Systems SB 233A2221–31–02, and BAE Systems SB 233A2221–31–03." DAL stated that rework of the panel in accordance with only one of the three BAE Systems service bulletins is required, based on the number of the panel to be modified. DAL noted that it is not possible to accomplish all three of the BAE Systems service bulletins on one panel since each service bulletin is applicable to a unique set of part numbers.

We do not agree with the commenter. The manufacturer has not identified the dash level of the part numbers in the subject notes of the referenced figures specified in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010. The intent of the notes is to allow rework of the applicable dash number part according to the applicable BAE component service bulletin, not by using all three BAE component service bulletins. We have made no change to the supplemental NPRM in this regard.

Request To Clarify Component Maintenance Manual (CMM) Reference

DAL asked that we clarify the CMM reference specified in paragraph 1.K. "Publications Affected" of Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010. DAL stated that this section refers to CMM 31–53; however, the correct references should be CMM 31–11–30 and CMM 31–11–59. DAL notified Boeing of this discrepancy; Boeing agreed that the reference in this service bulletin is incorrect and indicated that it would be corrected in a future revision.

We acknowledge the commenter's concern; however, the list of publications does not affect the actions required by the AD. In addition, Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012, changed note (c) in Figures 1 and 2 to provide the correct BAE Systems CMM references. We have made no change to the supplemental NPRM in this regard.

Request To Include Contact Information for BAE Systems

DAL asked that we include contact information in the AD so operators can obtain the applicable BAE Systems service bulletins referenced in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010, for reworking the existing part. DAL noted that the BAE service bulletins contain procedures for reworking the existing P1–3 and P3–1 panels. DAL added that paragraph (m) of the previous NPRM (76 FR 16579, March 24, 2011) identifies Boeing contact information, but does not include BAE Systems contact information.

We do not agree with the commenter. The BAE Systems service bulletins are not referred to in this supplemental NPRM; therefore, the BAE Systems contact information is not included. Operators should contact Boeing for any additional documents referred to in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010; Revision 2, dated August 18, 2011, or Revision 3, dated March 28, 2012. We have made no change to the supplemental NPRM in this regard.

Request To Remove Certain Language in the Limitations Section of the AFM

Boeing asked that we change paragraph (h)(3)(ii) of the previous NPRM (76 FR 16579, March 24, 2011), paragraph (j)(3)(ii) of this supplemental NPRM, to remove the language "For normal operations, the pressurization mode selector should be in AUTO prior to takeoff." Boeing stated that this step is already included in the Boeing Flight

Crew Operations Manual Preflight Checklist for the First Officer.

We do not agree with the commenter. We find that there is relevant accident history associated with incorrect setting of this specific switch; therefore, continued emphasis on the proper positioning of the switch prior to takeoff is required in the airplane flight manual. We have made no change to the supplemental NPRM in this regard.

Request To Increase Work-Hours

AAL asked that we increase the work hours specified in the previous NPRM (76 FR 16579, March 24, 2011). AAL stated that an evaluation of the referenced service information on its prototype airplane resulted in a work-hour requirement of 2.5 times greater than the 64 hours specified in the previous NPRM. AAL added that a better estimate for completing the entire modification would be 140 work-hours.

We do not agree with the commenter. The cost information in this supplemental NPRM describes only the direct costs of the specific required actions. Based on the best data available, the manufacturer provided the number of work hours necessary to do the required actions. This number represents the time necessary to perform only the actions actually required by this supplemental NPRM. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. But the cost analysis in AD rulemaking actions typically does not include incidental costs such as the time necessary for planning, airplane down time, or time necessitated by other administrative actions. Those incidental costs, which might vary significantly among operators, are almost impossible to calculate. We have made no change to the supplemental NPRM in this regard.

FAA's Determination

We are proposing this supplemental NPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the original NPRM (76 FR 16579, March 24, 2011). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Proposed Requirements of the Supplemental NPRM

This supplemental NPRM would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 870 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Installation of warning indicator lights.	Between 34 and 84	$85	Between $2,172 and $5,238.	Between $5,062 and $12,378.	870	Between $4,403,940 and $10,768,860.
AFM revision	2	85	$0	$170	870	$147,900.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2011–0258; Directorate Identifier 2010–NM–191–AD.

(a) Comments Due Date

We must receive comments by October 11, 2012.

(b) Affected ADs

This AD affects the ADs identified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD. This AD does not supersede the requirements of these ADs.

(1) AD 2003–14–08, Amendment 39–13227 (68 FR 41519, July 14, 2003).

(2) AD 2006–13–13, Amendment 39–14666 (71 FR 35781, June 22, 2006).

(3) AD 2008–23–07, Amendment 39–15728 (73 FR 66512, November 10, 2008).

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category; identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012.

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Unsafe Condition

This AD was prompted by a design change in the cabin altitude warning system that would address the identified unsafe condition. We are issuing this AD to prevent failure of the flightcrew to recognize and react to a valid cabin altitude warning horn, which could result in incapacitation of the flightcrew due to hypoxia (lack of oxygen in the body) and consequent loss of control of the airplane.

(f) Compliance

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

(g) Installation

Within 36 months after the effective date of this AD, install two warning level indicator lights on each of the P1–3 and P3–1 instrument panels in the flight compartment, and as applicable, replace the existing P5–16 and P5–10 panels, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012.

(h) Concurrent Requirements

For Group 21, Configuration 2 airplanes, as identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012: Prior to or concurrently with doing the actions required by paragraph (g) of this AD, replace the basic P5–16 panel with a high altitude landing P5–16 panel, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–21–1171, dated February 12, 2009.

(i) Credit for Previous Actions

(1) For Group 1 airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010; except Groups 24, 25, and 27 through 33 airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012: This paragraph provides credit for the corresponding actions required by paragraph (g) of this AD if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010, which is not incorporated by reference.

(2) For airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011; except airplanes identified in paragraph (i)(3) of this AD and Groups 24, 25, and 27 through 33 airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012: This paragraph provides credit for the corresponding actions required by paragraph (g) of this AD if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011, which is not incorporated by reference.

(3) For Group 21, Configuration 2 airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012: This paragraph provides credit for the corresponding actions required by paragraph (g) of this AD if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011, which is not incorporated by reference; and provided that Boeing Service Bulletin 737–21–1171, dated February 12, 2009, was accomplished prior to or concurrently with the actions in Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011.

(j) Airplane Flight Manual (AFM) Revisions

Within 36 months after the effective date of this AD, and after doing the installation required by paragraph (g) of this AD, do the actions specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD.

(1) Revise the Limitations Section of the applicable Boeing 737 AFM by doing the following action: Delete the "CABIN ALTITUDE WARNING TAKEOFF BRIEFING" added by AD 2008–23–07, Amendment 39–15728 (73 FR 66512, November 10, 2008).

(2) Revise the Non-Normal Procedures Section of the applicable Boeing 737 AFM by doing the actions specified in paragraphs (j)(2)(i), (j)(2)(ii), (j)(2)(iii), and (j)(2)(iv) of this AD.

(i) Delete the procedure titled "WARNING HORN—CABIN ALTITUDE OR CONFIGURATION" added by AD 2006–13–13, Amendment 39–14666 (71 FR 35781, June 22, 2006). If the title of this procedure has been changed according to FAA alternative method of compliance (AMOC) Letter 130S–09–134a, dated April 28, 2009, delete the procedure that was approved according to this AMOC letter.

(ii) Delete the procedure titled "CABIN ALTITUDE WARNING OR RAPID DEPRESSURIZATION" added by AD 2003–14–08, Amendment 39–13227 (68 FR 41519, July 14, 2003).

(iii) If the procedure titled "CABIN ALTITUDE (Airplanes with the CABIN ALTITUDE lights installed)" is currently contained in the applicable Boeing 737 AFM, delete the procedure titled "CABIN ALTITUDE (Airplanes with the CABIN ALTITUDE lights installed)."

(iv) Add the following statement. This may be done by inserting a copy of this AD into the applicable AFM.

"CABIN ALTITUDE WARNING OR RAPID DEPRESSURIZATION

Condition: The CABIN ALTITUDE warning light illuminates or the intermittent warning horn sounds in flight above 10,000 ft MSL.

RECALL	
Oxygen Masks and Regulators	ON, 100%
Crew Communications	ESTABLISH
REFERENCE	
Pressurization Mode Selector	MANUAL
Outflow Valve Switch	CLOSE
If Cabin Altitude is uncontrollable:	
Emergency Descent (If Required)	INITIATE
Passenger Oxygen Switch	ON
Thrust Levers	CLOSE
Speed Brakes	FLIGHT DETENT
Target Speed	MO/MMO"

Note 1 to paragraphs (j)(2)(iv) and (j)(3)(ii) of this AD: When statements identical to those specified in paragraphs (j)(2)(iv) and (j)(3)(ii) of this AD have been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copies of this AD may be removed from the AFM.

(3) Revise the Normal Procedures Section of the applicable Boeing 737 AFM by doing the actions specified in paragraphs (j)(3)(i) and (j)(3)(ii) of this AD.

(i) Delete the procedure titled "CABIN ALTITUDE WARNING TAKEOFF BRIEFING" procedure added by AD 2008–23–07, Amendment 39–15728 (73 FR 66512, November 10, 2008).

(ii) Add the following statement. This may be done by inserting a copy of this AD into the applicable AFM.

For normal operations, the pressurization mode selector should be in AUTO prior to takeoff.

(k) Terminating Action for Affected ADs

Accomplishing the requirements of this AD terminates the requirements of the ADs identified in paragraphs (k)(1), (k)(2), and (k)(3) of this AD for only the airplanes identified in paragraph (c) of this AD.

(1) AD 2003–14–08, Amendment 39–13227 (68 FR 41519, July 14, 2003): The requirements specified in Table 1 and Figure 1 of that AD.

(2) AD 2006–13–13, Amendment 39–14666 (71 FR 35781, June 22, 2006): All requirements of that AD.

(3) AD 2008–23–07, Amendment 39–15728 (73 FR 66512, November 10, 2008): All requirements of that AD.

(l) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(n) Related Information

(1) For more information about this AD, contact Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6472; fax: (425) 917–6590; email: *jeffrey.w.palmer@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 10, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–20880 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0810; Directorate Identifier 2011–NM–195–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A330–200, A330–300, A340–200 and A340–300 series airplanes. This proposed AD was prompted by a report that revealed the wheel axles of the main landing gear (MLG) were machined with a radius as small as 0.4 millimeters. This proposed AD would require replacing the wheel axle of the MLG with a serviceable part. We are proposing this AD to prevent fatigue of the wheel axle of the MLG, which could adversely affect the structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by October 11, 2012.

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

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

For service information identified in this proposed AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–0810; Directorate Identifier 2011–NM–195–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0170, dated September 7, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> EASA has received a report via Airbus and Messier-Bugatti-Dowty Ltd, from a Maintenance repair organisation, concerning a specific repair, accomplished on certain MLG wheel axles. Investigations revealed that the axles have been machined with a radius as small as 0.4 mm.
>
> This condition, if not corrected, has a detrimental effect on the fatigue lives of these parts, possibly affecting the structural integrity of the aeroplane. Fatigue analyses were performed, the results of which

indicated that the life limit of the affected MLG wheel axles must be reduced to below the one stated in the A330 and A340 Airbus Airworthiness Limitation Section (ALS) Part 1.

For the reasons described above, this [EASA] AD requires the replacement of the MLG wheel axles before reaching the new reduced demonstrated life limit.

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

Relevant Service Information

Airbus has issued All Operator Telex A330–32A3256, dated August 24, 2011, including Appendix 1, dated August 23, 2011 (for Model A330–200 and –300 series airplanes); and All Operator Telex A340–32A4292, dated August 24, 2011, including Appendix 1, dated August 23, 2011 (for Model A340–200 and –300 series airplanes). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 59 products of U.S. registry. We also estimate that it would take about 48 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $153,443 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $9,293,857, or $157,523 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2012–0810; Directorate Identifier 2011–NM–195–AD.

(a) Comments Due Date

We must receive comments by October 11, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to certain Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213, –311, –312, and –313 airplanes; certificated in any category; all manufacturer serial numbers, except those on which Airbus modification 54500 has been embodied in production.

(d) Subject

Air Transport Association (ATA) of America Code 32: Landing Gear.

(e) Reason

This AD was prompted by a report that revealed the wheel axles were machined with a radius as small as 0.4 millimeters. We are issuing this AD to prevent fatigue of the wheel axle of the main landing gear (MLG), which could adversely affect the structural integrity of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Definitions

(1) For the purpose of this AD, an affected MLG wheel axle is defined as a MLG axle having a part number and serial number specified in Part 1 of Appendix 1, dated August 23, 2011, of Airbus All Operator Telex A330–32A3256, dated August 24, 2011 (for Model A330–200 and –300 series airplanes); or Airbus All Operator Telex A340–32A4292, dated August 24, 2011 (for Model A340–200 and –300 series airplanes).

(2) After removal from an airplane, an affected MLG wheel axle that has reached its life limit is considered an unserviceable part.

(3) The term "life limit" used in this AD means a post-repair life limit.

(h) Replacement

At the later of the times specified in paragraph (h)(1) or (h)(2) of this AD: Replace all affected MLG wheel axles with serviceable parts, in accordance with the instructions of Airbus All Operator Telex A330–32A3256, dated August 24, 2011, including Appendix 1, dated August 23, 2011 (for Model A330–200 and –300 series airplanes); or Airbus All Operator Telex A340–32A4292, dated August 24, 2011, including Appendix 1, dated August 23, 2011 (for Model A340–200 and –300 series airplanes).

(1) Replace before the accumulation of the applicable landings or flight hours specified

in table 1 to paragraph (h)(1) of this AD. The "Post Repair MLG wheel Axle Life Limit" must be counted from the date of installation of the MLG wheel axle on an airplane that occurs after the date of repair specified in Part 1 of Appendix 1, dated August 23, 2011 of Airbus All Operator Telex A330–32A–3256 (for Model A330–200 series airplanes and Airbus Model A330–300 series airplanes); or Airbus All Operator Telex A340–32A–4292 (for Model A340–200 series airplanes and Airbus Model A340–300 series airplanes).

(2) Replace within 24 months after the effective date of this AD without exceeding the applicable landings or flight hours specified in table 2 to paragraph (h)(2) of this AD. The "Post Repair MLG wheel axle flight hours or landings, not to be exceeded" must be counted from the date of installation of the MLG wheel axle on an airplane which occurs after the date of repair specified in the Part 1 of Appendix 1, dated August 23, 2011, of Airbus All Operator Telex A330–32A3256, dated August 24, 2011 (for Model A330–200 and –300 series airplanes); or Airbus All Operator Telex A340–32A4292, dated August 24, 2011 (for Model A340–200 and –300 series airplanes).

TABLE 1 TO PARAGRAPH (h)(1) OF THIS AD—POST-REPAIR MLG WHEEL AXLE LIFE LIMIT

Affected airplanes	Post-repair MLG wheel axle life limit, whichever occurs first (see paragraph (h)(1) of this AD)
Model A340–311, –312, and –313 airplanes, weight variant (WV) 00	4,700 landings or 22,250 flight hours.
Model A340–211, –212, and –213 airplanes, WV00	4,600 landings or 29,000 flight hours.
Model A340–313 airplanes, WV02 and WV05	3,950 landings or 16,900 flight hours.
Model A330–301, –321, –322, –341, and –342 airplanes, WV00 and WV01	5,050 landings or 15,200 flight hours.
Model A330–201, –202, –203, –223, and –243, WV02, WV05, and WV06	4,450 landings or 17,900 flight hours.
Model A330–301, –302, –303, –323, –342, and –343 airplanes, WV02 and WV05	5,150 landings or 13,450 flight hours.

TABLE 2—TO PARAGRAPH (h)(2) OF THIS AD—POST-REPAIR MLG WHEEL AXLE FLIGHT HOURS OR LANDINGS

Affected airplanes	Post-repair MLG wheel axle flight hours or landings, whichever occurs first, not to be exceeded (see paragraph (h)(2) of this AD)
Model A340–311, –312, and –313 airplanes, WV00	7,830 landings or 37,080 flight hours.
Model A340–211, –212, and –213 airplanes, WV00	7,660 landings or 48,330 flight hours.
Model A340–313 airplanes, WV02 and WV05	6,580 landings or 28,160 flight hours.
Model A330–301, –321, –322, –341, and –342 airplanes, WV00 and WV01	8,410 landings or 25,330 flight hours.
Model A330–201, –202, –203, –223, and –243 airplanes, WV02, WV05, and WV06	7,410 landings or 29,830 flight hours.
Model A330–301, –302, –303, –323, –342, and –343 airplanes, WV02 and WV05	8,580 landings or 22,580 flight hours.

(i) Parts Installation Limitation

As of the effective date of this AD: An affected MLG wheel axle can be installed on an airplane, provided the MLG wheel axle has not exceeded the limits specified in table 1 to paragraph (h)(1) of this AD and it is replaced with a serviceable part before reaching the life limit defined in table 1 to paragraph (h)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2011–0170, dated September 7, 2011, and the service information in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD, for related information.

(i) Airbus All Operator Telex A330–32A3256, dated August 24, 2011, including Appendix 1, dated August 23, 2011.

(ii) Airbus All Operator Telex A340–32A4292, dated August 24, 2011, including Appendix 1, dated August 23, 2011.

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; Internet *http://www.airbus.com*.

Issued in Renton, Washington, on August 14, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–20879 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. CPSC–2012–0048]

16 CFR Chapter II

All-Terrain Vehicle Safety Summit

AGENCY: Consumer Product Safety Commission.

ACTION: Notification.

SUMMARY: The Consumer Product Safety Commission (CPSC, Commission, or we) is announcing its intent to hold a Summit on all-terrain vehicle (ATV) safety. The Summit will be held at the CPSC's headquarters in Bethesda, MD, on October 11 and 12, 2012. We invite interested parties to participate in or attend the Summit and to submit comments.

DATES: The Summit will be held from 9 a.m. to 4 p.m. on October 11 and 12, 2012. Individuals interested in serving on panels or presenting information at the Summit should register by September 14, 2012; all other individuals who wish to attend the Summit should register by October 5, 2012. Written comments must be received by November 14, 2012.

ADDRESSES: The Summit will be held at the CPSC's headquarters, 4330 East West Highway, 4th Floor Hearing Room, Bethesda, MD 20814. Persons interested in serving on a panel, presenting information, or attending the Summit should register online at *http://www.cpsc.gov/meetingsignup.html*, and click on the link titled, "ATV Safety Summit."

You may submit written comments, identified by Docket No. CPSC–2012–0048, by any of the following methods:

Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov.*

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

FOR FURTHER INFORMATION CONTACT: Hope Nesteruk, Division of Human Factors, Directorate for Engineering Sciences, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7694, email *atvsafetysummit@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

All-terrain vehicles (ATVs) are motorized vehicles, designed for off-road use, with three or four broad, low-pressure tires (less than 10 pounds per square inch), a seat designed to be straddled by the operator, and handlebars for steering. Since the 1980s, the CPSC has been involved with ATV safety through various means, including rulemaking, recalls, and litigation. Currently, ATVs are required to meet the Commission's ATV safety standard at 16 CFR part 1420, and comply with manufacturer and distributor action plans that require numerous additional safety measures. However, a number of ATV issues remain. For example, there are several issues from our 2006 NPR that differ from the requirements of 16 CFR part 1420 and the action plans. In addition, aspects of safety that are related to the behavior of ATV operators, such as use restrictions governing issues such as helmet use, riding on pavement, licensing of drivers, and age restrictions are generally a matter left to the states. Finally, some avenues toward improved ATV safety require additional research that is beyond the Commission's current budget and resources.

CPSC staff is looking toward the future and envisions a two-pronged approach to improving ATV safety: Regulation and stakeholder engagement. Work regarding the 2006 NPR is nearing completion. However, because 6 years have passed since the issuance of the NPR, staff would like to provide stakeholders an opportunity to present their views on the outstanding issues. In addition, once rulemaking is complete, we envision that the next phase of the effort will focus on the different roles each of the various stakeholders can play to achieve the goal we believe every one of these stakeholders support: Keeping families safe on ATVs. With these interests in mind, we are inviting stakeholders to come together for an ATV Safety Summit. This Summit will serve as a forum for stakeholders who have a mutual commitment to ATV safety to share new information, as well as collaborate as a team and seek solutions to common problems.

The Summit will take place over 2 days and will feature a mix of rulemaking and nonrulemaking topic areas. There will be a series of panel discussions each day focused on a different topic of ATV safety. The details of the various topics are found in section III. The panel sessions will begin with presentations from each panelist and will be followed by a question, answer, and discussion forum. Every forum will be an open discussion led by CPSC staff moderators where attendees can speak freely. The discussions centering on our rulemaking will allow attendees to discuss the open rulemaking, and these discussions may be used to inform our future rulemaking. The discussion focusing on new innovations in ATV safety will allow stakeholders to work together to achieve common goals, develop possible solutions, and address actions that each stakeholder can perform to advance the goal of keeping families safe on ATVs.

II. What do we hope the summit will accomplish?

Our primary goal in this ATV Safety Summit is to bring together the stakeholders, including manufacturers, consumer advocates, academic researchers, and others with an interest in ATV safety, in an environment that fosters mutual respect and that encourages the sharing of information. We hope that by sharing lessons learned regarding public awareness, information/education, training, and technology, the groups each can take away information and ideas that will help everyone promote ATV safety. In addition, for issues that are not related to our current rulemaking effort, we want to encourage stakeholders to work together to develop solutions to ATV issues apart from any effort or assistance by the CPSC.

Because there are some differences between the regulations we proposed in 2006 and the regulations we promulgated after passage of the CPSIA, a secondary goal of the Summit is to give stakeholders the opportunity to inform CPSC staff of any new developments in these areas. More specifically, we are interested in learning about new developments in the areas of ATV lighting, consumer point-of-purchase information, and youth ATVs (speeds, size, weight, and transmission).

III. What topics will be addressed at the summit?

In general, the Summit will focus on the overall theme: "Keeping Families Safe on ATVs." We recommend that all potential panelists consider this general theme when preparing. In particular, there are six topics areas that we have identified. Below is a list of the subject of each session and suggested specific topics for each. These suggested topics are meant to be a guideline, but potential panelists should not feel limited only to what is suggested below.

Rulemaking Topic Areas

1. Vehicle Characteristics

- Suggested topics: Vehicle lighting (brake lights and head lights); Age categories; Speeds and transmission

for youth ATVs—user acceptance and user abilities; Physical sizing of ATVs

2. Consumer Awareness

- Suggested topics: Point-of-purchase information; on-product warning labels and hang tags

ATV Innovations Topic Areas

1. State Legislation: Effecting Change

- Suggested topics: How to effect change; what works, what doesn't? Successes and failures with other outdoor products

2. ATV Training: Reaching the Next Generation

- Suggested topics: Increasing availability; using new technology; what works, what doesn't?

3. Public Awareness, Information, and Education: Speaking With One Voice

- Suggested topics: What works, what doesn't? Cultural and social media challenges to promoting safe riding

4. Vehicle Technology Innovations

- Suggested topics: Any new innovation—from the proof-of-concept stage or current in-use on ATVs—to advances in the area of lateral stability and rollover protection.

It is difficult to anticipate the number of panelists who will be available for each topic area. Therefore, we have not yet determined the order of the panel sessions. We may combine, expand, or eliminate panel sessions depending on the level of interest. The final schedule will be announced on our Web site by September 28, 2012.

IV. Details Regarding the Summit

A. When and where will the summit be held?

The Summit will be held from 9:00 a.m. to 4:00 p.m. on October 11–12, 2012, at the CPSC Headquarters building at 4330 East West Highway, 4th Floor Hearing Room, Bethesda, MD 20814.

B. How do you register for the summit?

If you would like to be a panelist for a specific session of the Summit, you should register by September 14, 2012. (See the **ADDRESSES** portion of this document for the Web site link and instructions on where to register.) We also ask that you submit a brief (less than 200 word) abstract of your topic, area of expertise, and desired breakout panel. In the event that more panelists request a particular session than time will allow, staff will select panelists based on considerations such as: Whether the information to be presented has been received in previous open comment periods; what is the individual's familiarity or expertise with the topic to be discussed; is there practical utility in the information to be presented; what is the topic's relevance to the identified theme and topic area; what is the individual's viewpoint or ability to represent certain interests (*e.g.*, such as large manufacturers, small manufacturers, academic researchers, consumer organizations). While an effort will be made to accommodate all persons who wish to be panelists, we expect to limit each panel session to no more than five panelists. Therefore, the final number of panelists may be limited. We recommend that individuals and organizations with common interests consolidate or coordinate their panel requests. To assist in making final panelist selections, staff may request potential panelists to submit planned presentations in addition to the initial abstract. We will notify selected panelists by September 21, 2012.

If you wish to attend and participate in the Summit, but you do not wish to be a panelist, you should also register by October 5, 2012, and identify your affiliation. Every effort will be made to accommodate each person's request; however, we may need to limit registration to meet the occupant capacity of our meeting rooms. If you are unable to attend the Summit, it will be available through a webcast, but you will not be able to interact with the panels and presenters, nor will every panel session be available. You do not need to register for the webcast. The panels that are not webcast will be taped and made available for viewing on the CPSC Web site.

If you wish to submit written comments for any reason, you may do so before or after the Summit by any of the methods stated in the **ADDRESSES** portion of this notice. These comments should be received by November 14, 2012. Comments should focus on new information that was not submitted previously that is related to the topic areas listed above.

C. What will be the format of the summit?

The Summit will open with a plenary session that includes a brief overview of the Commission's past activities on ATVs. Following that, there will be a series of panels covering the topics listed above. Each panel session will consist of stakeholders and members of the public and will be moderated by CPSC staff. We expect potential panelists to speak for approximately 10 minutes each about their topic area. At the conclusion of the panel's presentations, there will be a question, answer, and discussion session among the panelists and the audience, centering on the topics discussed by the panelists. Each panel session will be approximately 1 hour and 45 minutes.

For the topics not related to rulemaking activities, a CPSC moderator will work with the group to help identify common goals, possible solutions, and actions each stakeholder can take, independent of any action, effort, or funding from the CPSC. We are not soliciting or accepting any advice from the group as a whole; instead, we are seeking to encourage the stakeholders to find common ground to move forward.

For the topic areas related to our rulemaking effort, a CPSC staff member will moderate the panel session to focus the discussion on our open rulemaking topics. We are seeking new information that may be used to inform our rulemaking.

All attendees will be given the opportunity to ask questions and make comments during the panel session. At the close of the afternoon session, all groups will join for a plenary session, during which the groups will report on the results of their discussions.

D. What happens if few people register for the summit?

If fewer than 15 panelists or less than 30 participants register for the Summit, we may cancel the Summit. If we decide to cancel the Summit for this or any other reason, we will post a cancellation notice on the registration Web page for the Summit and send an email to all registered participants who provide their email address when they register.

Dated: August 22, 2012.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2012–21011 Filed 8–24–12; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–NERI–09778; 4785–LZY]

RIN 1024–AD95

Special Regulations; Areas of the National Park System, New River Gorge National River, Bicycle Routes

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to designate new and existing multi-use trails and administrative roads within the New River Gorge National River as bicycle routes. The rule is necessary because the National Park Service general regulation requires publication of a special regulation to designate routes for bicycle use when such use will be outside of developed areas and special use zones.

DATES: Comments must be received by October 26, 2012.

ADDRESSES: You may submit your comments, identified by Regulation Identifier Number (RIN) 1024–AD95, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or hand deliver to:* Don Striker, Superintendent. Attn: Bicycle Regulation, New River Gorge National River, P.O. Box 246, Glen Jean, WV 25846–0246.

FOR FURTHER INFORMATION CONTACT: Jamie Fields, Outdoor Recreation Planner, New River Gorge National River, P.O. Box 246 (104 Main St), Glen Jean, WV 25846, (304) 465–6527, *Jamie_Fields@nps.gov.*

SUPPLEMENTARY INFORMATION:

Administrative Background

The New River Gorge National River (NERI or park), a unit of the National Park System located in West Virginia, encompasses approximately 72,000 acres within a 53-mile corridor along the New River, extending from Hawks Nest State Park to Hinton. Congress directed the establishment of NERI as a unit of the National Park System, largely in response to a 20-year grassroots effort organized by local community leaders. In 1978, President Jimmy Carter signed legislation establishing the park, "for the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations." Public Law 95–625, sec. 1101, 1978. Subsequent legislation concerning the park states in its findings that NERI "has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy." Public Law 100–534, sec. 2(a)(1)–(2), 1988.

The park's 1982 General Management Plan (1982 GMP) anticipated accommodating an expanding array of recreational pursuits, including off-road bicycling. It states that "[l]evels of use of new or unusual forms of recreation (such as hang gliding, rock climbing, dirt bicycling) will be managed to avoid problems of visitor safety, conflicts between uses, or resource impacts." Page 18.

The 1982 GMP also anticipated trail construction as funding became available. A subsequent park-wide Trail Development Plan (1993) recommended that the park develop a trail system emphasizing multiple uses, including hiking and bicycling. Both of these plans can be viewed by going to the NERI park planning Web site, *http://www.nps.gov/neri/parkmgmt/planning.htm,* then following this path: click the link for "Environmental Assessment: Design and Build Two Stacked Loop Hiking and Biking Trail Systems * * *;" click the link to the Document List on the left; click the link to either the "1982 NERI General Management Plan" or the "1993 NERI Trail Development Plan;" then download the documents on their respective pages.

The park began developing a new, updated general management plan in 2005 to respond to changes in park boundaries, land acquisitions, and park and public needs and priorities that had occurred since the 1982 GMP was approved. As a component of this process, and based upon an analysis of the park's enabling legislation and subsequent amendments, administrative history, resources, values and opportunities, NERI staff developed a Foundation Plan that determined that a major purpose of the park is to "provide opportunities for public understanding, appreciation and enjoyment of the park's natural, cultural, scenic and recreational resources and values." Page 5. As stated in the Foundation Plan, two major reasons that NERI is significant enough to have been designated as a unit of the National Park System are its "diverse and extraordinary scenic resources and views accessible to visitors from the river, rocky overlooks, trails and rural roads throughout the park, and its exceptional opportunities for exploration, adventure, discovery, solitude and community." Page 6. Other purpose and significance statements that highlight the park's natural and cultural resources can be found in the Foundation Plan, which can be viewed by going to the NERI park planning Web site, *http://www.nps.gov/neri/parkmgmt/planning.htm,* then following this path: click the link for "General Management Plan;" click the link to the Document List on the left; click the link to the "Draft General Management Plan and EIS/Draft Foundation Plan;" then download the document entitled "Draft Foundation Plan" at the bottom of the page (corrections to the Foundation Plan are located in the "Abbreviated Final General Management Plan * * *," also in the Document List).

The park's updated 2010/2011 GMP and Environmental Impact Statement (2010/2011 GMP/EIS) process revealed substantial and consistent public support for designating routes in the park as bicycle trails during public scoping (February 2004 through October 2007) and public comment (January 13, 2010 through April 16, 2010).

The 2010/2011 GMP/EIS proposed that, after promulgation of the required special regulations and proper compliance with the National Environmental Policy Act (NEPA), bicycle use would be an appropriate use on new and existing trails. This would include bicycle use in frontcountry zones, in backcountry zones on single track trails, and on a limited basis on a variety of trail types in historic resource, river corridor, and park development zones. The Record of Decision (ROD) for the 2010/2011 GMP/EIS was signed, and the Notice of Availability was published in the **Federal Register** (77 FR 12877, March 2, 2012). The 2010/2011 GMP/EIS can be viewed by going to the NERI park planning Web site, *http://www.nps.gov/neri/parkmgmt/planning.htm,* then following this path: click the link for "General Management Plan;" click the link to the Document List on the left; click the link to the "Draft General Management Plan and EIS/Draft Foundation Plan;" then download the documents at the bottom of the page (corrections to the 2010/2011 GMP/EIS are located in the "Abbreviated Final General Management Plan * * *," also in the Document List).

As a result of the public support for bicycle use expressed early in the 2010/2011 GMP/EIS process, the park developed an Environmental Assessment (Trails EA) to evaluate the impact of the construction of new trails and designation of new and existing park trails as routes for bicycle use. Public scoping for the Trails EA, which occurred from November 10, 2009 until January 15, 2010 (with a public focus group on November 10, 2009 and a public open house on December 8, 2009), confirmed there was overwhelming support for bicycle use on trails. Only one of approximately 400 scoping comments from residents of 32

states was opposed to bicycle use at NERI.

Trail Terminology

The following trail terminology is used in the 2010/2011 GMP/EIS, the Trails EA, and the proposed rule:

- *Park administrative roads* generally have one-lane (two-track) dirt and gravel surfaces and are open only to National Park Service (NPS) authorized vehicle use. Public access is limited to hiking, in some cases bicycle use, and in a few cases equestrian use.
- *Frontcountry trails*, located in and near developed areas, have a maximum width of 30 to 36 inches and accommodate moderate use by a range of users (including hikers and bicyclists).
- *Backcountry trails* in remote areas do not exceed 18 to 24 inches in width and are designed for low use by experienced hikers and, in limited cases, bicyclists.
- *Stacked loop trail systems* are designed to have interconnected loops of trails, often having a variety of degrees of difficulty, that provide trail users options for varied distances, routes and destinations.
- *Connector trails* connect destinations or other trails to one another. Also, connector trails are segments of trails that could link together the 'Through the Park Trail,' as proposed in the 2010/2011 GMP/EIS. Currently, only some segments of the future 'Through the Park Trail' have been established.
- The term *branch* is synonymous with "creek." For example, Panther Branch is a creek that is a tributary of the New River.
- The difficulty of negotiating various trail sections in the two stacked loop trail systems is described in the Trails EA by designations of *Easiest, More Difficult,* and *Most Difficult*. The Trails EA anticipates that these descriptions will be applied to all other bike trails in the park.

○ Represented by a green circle, the easiest trails may be identified as "Easy" on interpretive kiosks and other publicly available media and are appropriate for bicyclists of a novice skill level. Easiest trails have firm surfaces with few obstacles, average trail grades of five percent or less, maximum grades of ten percent or less and are generally about 30 to 36 inches wide at the active trail tread.

○ Represented by a blue square, the more difficult trails may be designated as "Moderate" on interpretive kiosks and other publicly available media and are trails appropriate for bicyclists of an intermediate skill level. More difficult trails may include obstacles such as steps, stairs, and steep, exposed sections. Average trail grades on more difficult trails are ten percent or less, maximum grades are 15 percent or less, and active tread width is about 20 to 24 inches.

○ Represented by a black diamond, the most difficult trails may be designated as "Difficult" (or sometimes "Strenuous") on interpretive kiosks and other publicly available media and are appropriate for bicyclists of an expert skill level. Most difficult trails include obstacles such as steps, stairs, and significantly steep or exposed sections, have average grades of 15 percent or less, but can include maximum grades of 15 percent or more. Active tread width of most difficult trails is generally 12 to 18 inches.

Alternatives in Trails EA

The Trails EA presented three alternatives. Alternative A is the No Action Alternative and provided for the continuation of current management practices. Proposals common to both action alternatives (B and C) provided for the designation of some existing park trails and administrative roads as routes open to bicycle use, and for the construction and designation of three new trails for hiking and bicycle use by converting existing roads no longer used for vehicle access into the Mud Turn, Panther Branch Connector and Brooklyn Miner's Connector Trails.

Alternative B, the Preferred Alternative that became the NPS Selected Alternative, also provided for the development and construction of approximately 11 miles of new single track trail, called the Craig Branch Stacked Loop Trail System, and the development and construction of 33 miles of new single track trail, called the Garden Ground Stacked Loop Trail System for hiking and bicycle use.

Alternative C provided for the development and construction of 4.5 miles of single track trail on existing informal routes, such as old logging roads, called the Craig Branch Stacked Loop Trail System, and the development and construction of 45 miles of new single track trail, much of which would also be constructed on existing informal routes, called the Garden Ground Stacked Loop Trail System for bicycle use.

Of the 50 comments received on the Trails EA during the public comment period from January 26, 2011 through March 4, 2011, only two did not support the preferred alternative. One of these comments opposed the new trail development and did not mention bike use, and the other comment opposed bike use in natural areas, but did not specifically address NERI. The other 48 comments, most of which came from the local community of regular park visitors, supported bicycle use in the park.

Following public comment, the NPS selected the preferred alternative B, including the proposals common to both action alternatives. The NPS Northeast Regional Director signed a Finding of No Significant Impact (FONSI) on April 1, 2011. The Trails EA and FONSI can be viewed by going to the NERI park planning Web site, *http://www.nps.gov/neri/parkmgmt/planning.htm*, then following this path: click the link for "Environmental Assessment: Design and Build Two Stacked Loop Hiking and Biking Trail Systems * * *;" click the link to the Document List on the left; click the link to either the "Environmental Assessment—Design and Build * * *" or the "Finding of No Significant Impact (FONSI);" then download the documents on their respective pages.

Renaming of Trails

Since the FONSI was signed, several trail names in the Nuttallburg area of the park have changed. The Nuttall Mine Trail (also an administrative road) was renamed the Headhouse Trail on public maps. The Nuttallburg Town Connector Trail was renamed the Nuttallburg Town Loop Connector Trail. The Nuttallburg Tipple Trail (also an administrative road) was broken up on public maps into the Tipple Trail and the Seldom Seen Trail. The actual trail/administrative road on the ground remains the same as the Nuttallburg Tipple Trail addressed in the EA and FONSI. The Keeneys Creek Trail has been renamed on some public maps and documents as the Keeneys Creek Rail Trail, but older materials still call it the Keeneys Creek Trail.

Since its construction in summer of 2011, the Craig Branch Stacked Loop Trail System has been renamed the Arrowhead Trail. The proposed rule and future park maps will reflect this change, while prior documents (primarily the Trails EA and FONSI) refer to the Craig Branch Stacked Loop Trail System. Additionally, the Trails EA and FONSI refer to the stacked loop trails in the Craig Branch (now Arrowhead) and Garden Ground areas as "trail systems." In the proposed rule, they are called the "Arrowhead Trail" and the "Garden Ground Stacked Loop Trail," and are each treated as individual trails with interconnected segments.

Proposed Rule

Following the Trails EA and FONSI, the proposed rule would authorize bicycle use on two new stacked loop trail systems (the Arrowhead Trail and the Garden Ground Stacked Loop Trail System), three new trails converted from existing roads that are no longer used for vehicle access (the Mud Turn, Panther Branch Connector and Brooklyn Miner's Connector Trails), and 19 existing trails and administrative roads throughout the park. All of the new trails are approved for construction through the FONSI, but only the Arrowhead Trail has been constructed.

Arrowhead and Garden Ground Stacked Loop Trails

The Arrowhead Trail includes 13 miles of easy and more difficult single track trail above the rim of the New River Gorge on rolling, forested terrain. The trail has been built according to the frontcountry trail standards outlined in the park's 2010/2011 GMP/EIS. The Garden Ground Stacked Loop Trail would include approximately 33 miles of more difficult and most difficult single track trail traversing the edge of the plateau and along the bottom of the gorge parallel to the New River, with several challenging rim-to-river connections on the steep, forested slopes. The Garden Ground Stacked Loop Trail segments will be built in accordance with the backcountry trail standards outlined in the park's 2010/2011 GMP/EIS. Both trail systems will connect to other existing park trails and incorporate sustainable design and construction elements that take multi-use (hike and bike) social and physical issues into account while also mitigating the impacts of hiking and bicycle use. As new trails are constructed, old logging roads and recreational vehicle routes on adjacent lands will be rehabilitated and invasive plant species will be treated or removed.

Three New Trails Converted From Roads

The proposed rule would designate three new trails that would be constructed by converting existing, unused roads into single track, multi-use (hike and bike) trails. The Mud Turn Trail would be located on an abandoned road that connects the rim at Grandview to the river along Glade Creek Road by running along Mill Creek for approximately 2.75 miles. The Panther Branch Connector Trail, approximately three miles long between Glade Creek and Panther Branch, would be located on an abandoned state road and on a short section of old rail bed that was abandoned in the 1940s. The Brooklyn Miner's Connector Trail, less than one mile long, would be located on segments of an abandoned coal road connecting the lower tipple to the upper mine bench of the Brooklyn Mine area. These proposed road-to-trail conversions would be built to the backcountry trail standards proposed in the park's 2010/2011 GMP/EIS and incorporate the same sustainable design and construction principles used in the Arrowhead Trail.

Designation of Existing Trails and Administrative Roads for Bicycle Use

The proposed rule would designate 19 existing park trails and administrative roads, approximately 52 miles in total, to allow bicycle use. These are predominantly remnants of roads and railroad beds existing before the park was established or before the park had acquired land within its boundaries. Created primarily for logging and mining, some tracks were later developed or used for recreational purposes by local people on foot, and by off-road vehicle, motorcycle or bicycle. Once the park was established and the NPS acquired the land, these routes were adaptively reused as trails and administrative roads. Additional trails have since been constructed by NPS, most notably the Fayetteville Trail complex, which includes the backcountry Fayetteville Trail, the Park Loop, and the Timber Ridge Trail.

Trails To Be Designated for Bicycle Use

The proposed rule would authorize bicycle use on the routes listed and described in the tables below. Trails are labeled as Frontcountry, Backcountry, or Administrative Road in accordance with the management zones listed in the 2010/2011 GMP/EIS and the terms defined in the Trails EA. Trails that are only partially located on administrative roads are noted where appropriate.

Trail name	Mi.	Existing or new	Trail standard
Proposed Routes for Bicycle Use—Stacked Loop Trails			
Arrowhead Trail	13.0	New, Constructed	Frontcountry.
Garden Ground Stacked Loop Trail	33.0	New, Constructed	Backcountry.
Proposed Routes for Bicycle Use—Trails Converted From Roads			
Mud Turn Trail	2.8	New	Backcountry.
Panther Branch Connector Trail	3.0	New	Backcountry.
Brooklyn Miner's Connector Trail	0.8	New	Backcountry.
Proposed Routes for Bicycle Use—Existing Trails and Administrative Roads			
Hawks Nest Connector Trail	3.5	Existing	Frontcountry.
Fayetteville Trail	4.0	Existing	Backcountry.
Park Loop Trail	1.1	Existing	Backcountry.
Timber Ridge Trail	1.0	Existing	Backcountry.
Kaymoor Trail	8.6	Existing	Part Frontcountry/Part Administrative Road.
Craig Branch Trail	2.4	Existing	Administrative Road.
Long Point Trail (except the last 0.2 mi closest to the Long Point vista).	1.4	Existing	Frontcountry.
Keeneys Creek Rail Trail	3.0	Existing	Administrative Road.
Headhouse Trail	0.5	Existing	Administrative Road.
Tipple Trail	0.5	Existing	Administrative Road.
Seldom Seen Trail	0.3	Existing	Administrative Road.
Nuttallburg Town Loop Connector Trail	0.3	Existing	Frontcountry.
Brooklyn Mine Trail	2.7	Existing	Administrative Road.
Southside Trail	7.0	Existing	Part Frontcountry/Part Administrative Road.
Rend Trail	3.4	Existing	Administrative Road.

Trail name	Mi.	Existing or new	Trail standard
Stone Cliff Trail	2.7	Existing	Administrative Road.
Terry Top Trail	1.7	Existing	Administrative Road.
Little Laurel Trail	2.6	Existing	Administrative Road.
Glade Creek Trail	5.6	Existing	Part Frontcountry/Part Administrative Road.

Maps of these designated routes are available in the office of the Superintendent and may also be viewed in the Trails EA, which can be found by going to the NERI park planning Web site, *http://www.nps.gov/neri/parkmgmt/planning.htm,* then following this path: click the link for "Environmental Assessment: Design and Build Two Stacked Loop Hiking and Biking Trail Systems * * *;" click the link to the Document List on the left; click the link to the "Environmental Assessment—Design and Build * * *;" then download the document at the bottom of the page. A park map showing existing trails and administrative roads can also be found by downloading the NERI Trails Guide from the following Web site: *http://www.nps.gov/neri/planyourvisit/trails-guide.htm.*

Compliance With Other Laws, Executive Orders, and Department Policy Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This conclusion is based on the results of a cost/benefit and regulatory flexibility threshold analysis available for review on the NERI park planning Web site, *http://www.nps.gov/neri/parkmgmt/planning.htm.* The rule would not regulate small business. The rule would likely increase visitation at the park, which could generate benefits for small businesses in the local community through increased spending for goods and services.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The July 2011 NPS economic analysis estimated that the addition of more than 100 miles of new trails will significantly improve NERI's attractiveness to bicyclists and thus drive additional economic activity.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule will not impose restrictions on local businesses in the form of fees, training, recordkeeping, or other measures that would increase costs.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. The rule addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

Under the criteria in section 2 of Executive Order 12630, this rule does not have significant takings implications. This rule only designates bicycle routes and manages bicycle use on those routes within the boundaries of the New River National River. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only effects use of NPS administered lands. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

Throughout numerous past and current park planning processes, no expression of affiliation has been asserted with NERI by any tribal governments or organizations. Tribes that could potentially be affiliated were contacted individually during the development of the 2010/2011 GMP/EIS and no response was received. Copies of the Trails EA were sent to 14 Native American tribes who were identified as possibly having some interest in the

park. The Chief of the Remnant Yuchi Nation was the only tribal representative to respond; he indicated that he was grateful to be acknowledged, that the NPS should continue the excellent work, and that he had no formal questions at this time.

Paperwork Reduction Act (PRA)

This rule does not contain information collection requirements, and a submission under the PRA is not required.

National Environmental Policy Act (NEPA)

We have prepared environmental assessments to determine whether this rule would have a significant impact on the quality of the human environment under the NEPA. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because the NPS reached a FONSI for the Selected Alternative. The Trails EA, the FONSI and other relevant documents and records of the public process may be viewed by going to the NERI park planning Web site, *http://www.nps.gov/neri/parkmgmt/planning.htm.*

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 (section 1 (b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), 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 common, everyday words and 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 numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Availability of Comments

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.

Drafting Information

The primary authors of this proposed rule were Jamie Fields, New River Gorge National River; Joshua Nadas, NPS Conservation and Outdoor Recreation Programs; and Justin Hollimon, Regulations and Special Park Uses, National Park Service, Washington, DC.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under DC Code 10–137 (2001) and DC Code 50–2201 (2001).

2. In § 7.89 revise paragraph (b) to read as follows:

§ 7.89 New River Gorge National River.

* * * * *

(b) *Bicycling* (1) *Where may I ride a bicycle within New River Gorge National River?* Bicycle use is permitted on park roads, in parking areas, and on routes designated within the park in accordance with § 4.30 of this chapter. The following table lists administrative roads and trails designated for bicycle use:

ADMINISTRATIVE ROADS AND TRAILS DESIGNATED FOR BICYCLE USE—NORTH TO SOUTH

Hawks Nest Connector Trail	Keeneys Creek Rail Trail	Rend Trail.
Fayetteville Trail	Headhouse Trail	Stone Cliff Trail.
Park Loop Trail	Tipple Trail	Terry Top Trail.
Timber Ridge Trail	Seldom Seen Trail	Garden Ground Stacked Loop Trail.
Kaymoor Trail	Nuttallburg Town Loop Connector Trail	Little Laurel Trail.
Craig Branch Trail	Brooklyn Mine Trail	Mud Turn Trail.
Arrowhead Trail	Brooklyn Miner's Connector Trail	Glade Creek Trail.
Long Point Trail (except 0.2 miles closest to Long Point Vista).	Southside Trail	Panther Branch Connector Trail.

(2) *How will I know where the trails designated for bicycle use are located in the park?* Designated trails are identified on maps located in the Superintendent's office, at interpretive kiosks, and on the park's Web site. Trails will also be posted at trailheads and other appropriate locations.

(3) *What requirements must I meet to ride a bicycle within New River Gorge National River?* (i) In addition to the applicable provisions in 36 CFR part 4, all bicyclists must yield to other trail users in the following manner:

(A) A bicyclist must yield to an equestrian;

(B) A bicyclist must yield to a pedestrian; and

(C) A bicyclist travelling downhill must yield to a bicyclist travelling uphill.

(ii) Yielding the right of way requires slowing down to a safe speed, being prepared to stop, establishing communication, and passing safely.

(iii) Failure to yield is prohibited.

(4) *How will the Superintendent manage the designated bicycle routes?* The Superintendent may open or close designated bicycle routes, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

(i) The Superintendent will provide public notice of all such actions through

one or more of the methods listed in § 1.7 of this chapter.

(ii) Violating a closure, condition, or restriction is prohibited.

Dated: August 17, 2012.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–20898 Filed 8–24–12; 8:45 am]

BILLING CODE 4310–YP–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0786; FRL–9719–6]

Approval and Promulgation of Implementation Plans; Tennessee; Regional Haze State Implementation Plan; Best Available Retrofit Technology for Eastman Chemical Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department Environment and Conservation (TDEC), on May 14, 2012, related to the Best Available Retrofit Technology (BART) requirements for the Eastman Chemical Company (Eastman). Specifically, the May 14, 2012, SIP revision modifies the compliance date for the Eastman BART determination included in Tennessee's April 4, 2008, SIP revision and provides a BART alternative determination option for Eastman. Together, Tennessee's April 4, 2008, and May 14, 2012, SIP revisions address the requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program"). EPA is proposing to approve Tennessee's May 14, 2012, SIP revision because it is consistent with the CAA and EPA's regulations on regional haze BART determinations and BART alternative determinations.

DATES: Comments must be received on or before September 26, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0786, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* 404–562–9019.
4. *Mail:* EPA–R04–OAR–2009–0786, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. "EPA–R04–OAR–2009–0786." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Michele Notarianni can be reached at telephone number (404) 562–9031 and by electronic mail at *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the background for this proposed action?

On April 4, 2008, TDEC submitted a revision to Tennessee's SIP to address regional haze in mandatory federal Class I areas within the State and in mandatory federal Class I areas outside the State which may be affected by emissions from within the State. On June 9, 2011,[1] EPA published an action proposing a limited approval and a limited disapproval of Tennessee's

[1] On July 26, 2011, EPA reopened the comment period for EPA's proposed action related to Tennessee's April 4, 2008, SIP revision. *See* 76 FR 44534.

April 4, 2008, SIP revision (including the BART determination for Eastman) to address regional haze during the first implementation period.[2] *See* 76 FR 33662. Detailed background information and EPA's rationale for the proposed action is provided in EPA's June 9, 2011, proposed rulemaking. *See* 76 FR 33662.

After publication of EPA's June 2011 proposed action on Tennessee's regional haze SIP revision, the State and Eastman entered into discussions regarding a BART alternative determination that would give Eastman the option to comply with the regional haze BART requirements by converting its B–253 Powerhouse to natural gas in lieu of continuing to use coal and retrofitting its facility pursuant to the BART determination for sulfur dioxide (SO_2) emissions (hereafter referred to as the "Eastman BART alternative determination").

On April 24, 2012, EPA took final action on Tennessee's April 4, 2008, regional haze SIP revision, with the exception of the BART determination for Eastman. *See* 77 FR 24392. As noted in that action, EPA took no action on the Eastman BART determination provided in the April 4, 2008, SIP revision (hereafter referred to as the "original Eastman BART determination") at that time since EPA expected Tennessee to submit a revised SIP addressing a BART alternative determination for Eastman. EPA's proposed action for the original Eastman BART determination remains in place after EPA's April 24, 2012, action on the remainder of Tennessee's regional haze SIP revision.

On May 14, 2012, TDEC submitted a supplement to its April 2008 Tennessee regional haze plan to EPA with a revised BART determination for Eastman. In summary, the May 14, 2012, SIP revision for Eastman: (1) Modifies the final compliance date to April 30, 2017, for the original Eastman BART determination; and (2) establishes a BART alternative option for Eastman to convert its B–253 Powerhouse (Boilers 25–29) to burn natural gas. The SIP revision and Eastman's CAA title V operating permit stipulate that if Eastman elects to implement the BART alternative instead of the original BART determination, Eastman must begin construction on the BART alternative prior to April 30, 2017, and complete construction no later than the earlier of: December 31, 2018; the end of the period of the first long-term strategy (LTS) for regional haze as determined by EPA; or the compliance deadline for the one-hour SO_2 national ambient air quality standard (NAAQS). Tennessee's May 14, 2012, SIP revision also stipulates that if Eastman elects to implement the original BART determination instead of the BART alternative, it must comply with the BART requirements by April 30, 2017. The Tennessee Air Pollution Control Board approved this SIP revision and associated operating permit as Board Order 12–008 on May 9, 2012.[3]

II. What are the requirements for a BART alternative determination?

Under 40 CFR 51.308(e)(2), states may choose to meet the BART requirements with a BART alternative. Section 51.308(e)(2) specifies the requirements that a state must meet to show that the alternative measure or alternative program achieves greater reasonable progress than would be achieved through the installation and operation of BART. For a BART alternative, the state must submit an implementation plan containing, among other things, the following plan elements and include documentation for all required analyses:

(A) A list of all BART-eligible sources within the state.

(B) A list of all BART-eligible sources and all BART source categories covered by the alternative program. The state is not required to include every BART source category or every BART-eligible source within a BART source category in an alternative program.

(C) An analysis of the best system of continuous emissions control technology available and associated emissions reductions achievable for each source within the state subject to BART and covered by the alternative program. This analysis must be conducted by making a determination of BART for each source subject to BART and covered by the alternative program.

(D) An analysis of the projected emissions reductions achievable through the alternative measure.

(E) A determination that the alternative measure achieves greater reasonable progress than would be achieved through the installation and operation of BART at the covered sources.

(F) A requirement that all necessary emissions reductions take place during the period of the first long-term strategy for regional haze. To meet this requirement, the State must provide a detailed description of the alternative measure, including schedules for implementation, the emission reductions required by the program, all necessary administrative and technical procedures for implementing the program, rules for accounting and monitoring emissions, and procedures for enforcement.

(G) A demonstration that the emissions reductions resulting from the alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP.

III. What is EPA's analysis of Tennessee's May 14, 2012, SIP revision?

As previously mentioned, TDEC's May 14, 2012, SIP revision: (1) Modifies the final compliance date for the original Eastman BART determination; and (2) establishes a BART alternative option for Eastman to convert its B–253 Powerhouse (Boilers 25–29) to burn natural gas. Specifically, the SIP revision and the associated operating permit (No. 066116H) create two options for Eastman to reduce its visibility impairing pollutants from the B–253 Powerhouse and satisfy the BART requirements in 40 CFR 51.308(e). Eastman may install, operate, and maintain BART no later than April 30, 2017 (Option 1), or implement the BART alternative option to fuel switch its B–253 Powerhouse (Boilers 25–29) by the earlier of the following: December 31, 2018; the end of the period of the first LTS for regional haze as determined by EPA; or the compliance deadline for the one-hour SO_2 NAAQS (Option 2).

A. Modified Compliance Date for the Eastman BART Determination

The May 14, 2012, SIP revision requires Eastman to install, operate, and maintain BART no later than April 30, 2017, should Eastman decide not to pursue the BART alternative option

[2] EPA proposed a limited approval of Tennessee's April 4, 2008, SIP revision to implement the regional haze requirements for Tennessee on the basis that the revision, as a whole, strengthens the Tennessee SIP. Further, EPA proposed a limited disapproval of the same SIP revision because of the deficiencies in the State's regional haze SIP revision arising from the remand of the Clean Air Interstate Rule (CAIR) to EPA by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit). Subsequently, in a June 7, 2012, action, EPA finalized a Federal Implementation Plan for Tennessee to address the deficiencies that resulted from the State's reliance on CAIR for their regional haze SIP.

[3] Board Order 12–008 approves the withdrawal of operating permit 061873H (BART permit for Eastman issued March 31, 2008). The Order also approves the submittal of the Alternative BART Determination for Eastman Chemical Company—Tennessee Operations and operating permit 066116H (BART permit for Eastman issued May 9, 2012) to EPA for adoption into Tennessee's Regional Haze SIP. Tennessee provided this updated Board Order in a SIP revision on May 14, 2012. While the May 14, 2012, SIP revision contained the updated Board Order, EPA notes that Tennessee did not withdraw the original BART determination and technical analysis related to the Eastman facility that was provided in Tennessee's April 4, 2008, SIP revision.

(Option 1). This compliance date supplements the original Eastman BART determination and technical analysis provided in the State's April 4, 2008, SIP revision. EPA previously proposed approval of the original Eastman BART determination in its June 9, 2011, proposal on Tennessee's regional haze SIP. The comment period on that action closed August 10, 2011. As such, EPA is not reopening comment on the original Eastman BART determination. In today's rulemaking, EPA is taking comment only on the proposed approval of the April 30, 2017, compliance date for the original Eastman BART determination.

EPA proposes to find that the change in Tennessee's May 14, 2012, SIP revision to set a compliance date of April 30, 2017, for the original BART determination (as included in condition 1 of the May 9, 2012, permit for Eastman—number 066116H) is consistent with the CAA as well as EPA's regulations and guidance for BART determinations. Had EPA finalized its proposed action regarding the original Eastman BART determination on April 24, 2012, when the Agency took final action on the remainder of Tennessee's April 4, 2008, SIP revision, the compliance date for the original BART determination would have been May 24, 2017. Therefore, this proposed compliance date accelerates the implementation of BART at Eastman, should Eastman decide not to implement the BART alternative option evaluated below.

B. BART Alternative Option

The May 14, 2012, SIP revision also provides Eastman with the option to implement a BART alternative, in lieu of the original BART, that requires repowering the B–253 Powerhouse to natural gas by the earlier of the following: December 31, 2018; the end of the period of the first LTS for regional haze as determined by EPA; or the compliance deadline for the one-hour SO_2 NAAQS (Option 2). A December 31, 2018, date for the end of the period of the first LTS is consistent with the requirement to evaluate visibility over calendar year periods and the requirement for each state to submit an initial regional haze SIP that covers the period from submittal through 2018.[4]

The BART alternative option is subject to the provisions of 40 CFR 51.308(e)(2), as discussed in Section II of this proposed rulemaking, and is evaluated under these provisions in the following subsections.

1. A List of All BART-Eligible Sources Within the State

Tennessee's May 14, 2012, SIP revision identified the following BART-eligible sources within Tennessee:

(1) Aluminum Company of America (Alcoa)—South Plant;
(2) DuPont White Pigment and Mineral Products (Humphreys County);
(3) Eastman Chemical Company—Tennessee Operations;
(4) E. I. DuPont de Nemours and Company, Inc. (Old Hickory);
(5) E. I. DuPont de Nemours and Company, Inc. (Shelby County);
(6) Holston Army Ammunition Plant;
(7) Inter-trade Holdings, Inc.;
(8) Liberty Fibers Corporation:
(9) Lucite International;
(10) Owens Corning;
(11) Packaging Corporation of America;
(12) PCS Nitrogen;
(13) Tennessee Valley Authority (WA)—Bull Run Fossil Plant;
(14) Tennessee Valley Authority—Cumberland Fossil Plant;
(15) Zinifex; and
(16) Weyerhaeuser Corporation (now Domtar Paper Company)—Sullivan County.

This list includes all BART-eligible sources in Tennessee, as determined by EPA in its April 24, 2012, final action on Tennessee's April 4, 2008, regional haze SIP.

2. A List of All BART-Eligible Sources and All BART Source Categories Covered by the Alternative Program

The BART alternative option proposed in this action only pertains to the five boilers at Eastman's B–253 Powerhouse. It does not establish a trading program within the meaning of the federal BART regulations or include any other BART-eligible facilities.

3. An Analysis of the Best System of Continuous Emissions Control Technology Available and Associated Emissions Reductions Achievable for Each Source Within the State Subject to BART and Covered by the Alternative Program. This Analysis Must Be Conducted by Making a Determination of BART for Each Source Subject to BART and Covered by the Alternative Program

In its April 4, 2008, regional haze SIP revision, Tennessee completed an analysis of the best system of continuous emissions control technology available and associated emissions reductions achievable for Eastman and included a BART determination requiring the boilers in the B–253 Powerhouse to either reduce uncontrolled SO_2 emissions by 92 percent or meet an emissions limit of 0.2 pounds per million British thermal units (lbs/MMBtu) heat input. EPA proposed approval of Tennessee's BART determination for the B–253 Powerhouse in its June 9, 2011, action on Tennessee's April 4, 2008, regional haze SIP revision. On April 24, 2012, EPA took final action for Tennessee's April 4, 2008, regional haze SIP revision, with the exception of the BART determination for Eastman. *See* 77 FR 24392. EPA's proposed action to approve the original Eastman BART remains in place after EPA's April 24, 2012, action on the remainder of Tennessee's regional haze SIP revision.

4. An Analysis of the Projected Emissions Reductions Achievable Through the Alternative Measure

Under the proposed BART alternative option for Eastman to convert its B–253 Powerhouse (Boilers 25–29) to burn natural gas (Option 2), the SO_2 emissions rate would be 0.0006 lbs/MMBtu heat input based on the allowable sulfur in pipeline natural gas. This limit is an additional 99.7 percent reduction from the compliance limit of 0.2 lbs/MMBtu heat input for the BART determination (Option 1). In addition, nitrogen oxide emissions are expected to be reduced 50 percent from the existing baseline by the conversion to natural gas. No NOx reductions are expected from the original Eastman BART determination.

5. A Determination That the Alternative Measure Achieves Greater Reasonable Progress Than Would Be Achieved Through the Installation and Operation of BART at the Covered Sources

If there is no difference in the geographic distribution of BART-eligible source emissions between BART and the BART alternative, the BART alternative measure may be deemed to achieve greater reasonable progress if it results in greater emissions reductions than BART (i.e., dispersion modeling is not required to evaluate the differences in visibility between BART and the BART alternative). 40 CFR 51.308(e)(3). Since the BART alternative measure for the Eastman facility would result in a lower emission rate than BART and since there is no difference in the geographic distribution of emissions between BART and the BART alternative, EPA proposes to find that the BART alternative measure results in greater reasonable progress than BART.

The compliance date for BART (Option 1) is April 30, 2017, and the

[4] 40 CFR 51.308(f). *See also* 64 FR 35713, 35732–33, 35746 (July 1, 1999) (providing examples that include uniform rate of progress projections for the entire year of 2018).

final compliance date for the BART alternative (Option 2) is the end of the first regional haze implementation period in accordance with EPA's regulations. If Eastman chooses to adopt the BART alternative, phased implementation of the conversion of natural gas is expected throughout the first regional haze implementation period with lower emissions rates as each unit is converted. Furthermore, the lower emissions rates from repowering with natural gas will continue to extend into the future, providing substantially greater reasonable progress than BART. EPA therefore proposes to agree with Tennessee's determination that the BART alternative for the Eastman B–253 Powerhouse will result in "greater reasonable progress" than BART within the meaning of the federal regional haze rules.

6. A Requirement That All Necessary Emissions Reductions Take Place During the Period of the First LTS for Regional Haze. To Meet This Requirement, the State Must Provide a Detailed Description of the Alternative Measure, Including Schedules for Implementation, the Emissions Reductions Required by the Program, All Necessary Administrative and Technical Procedures for Implementing the Program, Rules for Accounting and Monitoring Emissions, and Procedures for Enforcement

Tennessee's May 14, 2012, SIP revision and associated operating permit require that Eastman comply with the BART alternative (should Eastman chose Option 2) no later than December 31, 2018, thereby satisfying the requirement that a source implement a BART alternative during the period of the first LTS. The operating permit also details the procedures for accounting and monitoring the emissions under the BART alternative. EPA previously approved Division Rule 1200–03–9–.02(6) into the Tennessee SIP which requires all permittees to comply with the conditions of their operating permit. Violation of the permit condition is, by definition, a violation of Division Rule 1200–03–9–.02(6) and grounds for enforcement action. As previously discussed, Tennessee provided a detailed description of the BART alternative and the expected emissions reductions.

7. A Demonstration That the Emissions Reductions Resulting From the Alternative Measure Will Be Surplus to Those Reductions Resulting From Measures Adopted To Meet Requirements of the CAA as of the Baseline Date of the SIP

Implementation of the Eastman BART alternative would result in surplus emissions reductions since the additional emissions reductions beyond BART are not required to meet any other provision of the CAA or any other TDEC requirements as of the date that the Tennessee Air Pollution Control Board adopted Board Order 12–008.

EPA proposes to find that the change in Tennessee's May 14, 2012, SIP revision to establish a BART alternative option for Eastman to convert its B–253 Powerhouse (Boilers 25–29) to burn natural gas is consistent with the CAA as well as EPA's regulations and guidance for BART alternative determinations.

IV. Proposed Action

EPA is proposing to approve a revision to the Tennessee SIP submitted by the State of Tennessee on May 14, 2012, related to the BART requirements for Eastman, which supplements the April 4, 2008, revision. Specifically, EPA is proposing to approve the BART alternative determination option for Eastman which would allow for the conversion of Eastman's B–253 Powerhouse (Boilers 25–29) to burn natural gas. As a supplement to EPA's existing proposed action to approve the original Eastman BART determination, EPA is also now proposing to approve a compliance end date of April 17, 2018 for the original BART determination, should Eastman elect not to implement the BART alternative determination. EPA has preliminarily concluded that the Eastman BART alternative determination and proposed change to the compliance date for the original Eastman BART determination meet the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.308(e)(2) as described previously in this action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed 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 proposed action:

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

In addition, this proposed 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 9, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–21040 Filed 8–24–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1158]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On December 16, 2010, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 75 FR 78654. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for the City of Newport News, Virginia. Specifically, it addresses the flooding sources Newmarket Creek, Newmarket Creek Tributary, Stoney Run, Stoney Run-Colony Pines Branch, and Stoney Run-Denbigh Branch.

DATES: Comments are to be submitted on or before November 26, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1158, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Correction

In the proposed rule published at 75 FR 78654, in the December 16, 2010, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "City of Newport News, Virginia" addressed the flooding sources Newmarket Creek, Newmarket Creek Tributary, Stoney Run, Stoney Run-Colony Pines Branch, and Stoney Run-Denbigh Branch. That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for the flooding sources Stoney Run-Colony Pines Branch and Stoney Run-Denbigh Branch. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)	
				Existing	Modified
City of Newport News, Virginia					
Virginia	City of Newport News.	Newmarket Creek	Approximately 0.45 mile downstream of Hampton Roads Center Parkway.	None	+18
			Approximately 0.94 mile upstream of Hampton Roads Center Parkway.	None	+21
	City of Newport News.	Newmarket Creek	Approximately 1,287 feet downstream of Harpersville Road.	None	+24
			Approximately 0.56 mile upstream of Harpersville Road.	None	+26
	City of Newport News.	Newmarket Creek Tributary.	Approximately 765 feet downstream of Agusta Drive.	None	+22
			Approximately 167 feet upstream of Agusta Drive.	None	+22
	City of Newport News.	Stoney Run	Approximately 0.8 mile downstream of Old Courthouse Way.	+7	+8
			Approximately 0.56 mile upstream of Woodside Lane.	None	+47
	City of Newport News.	Stoney Run-Colony Pines Branch.	Approximately 776 feet downstream of Richneck Road.	None	+27
			Approximately 1,450 feet upstream of Windsor Castle Drive.	None	+40

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)	
				Existing	Modified
	City of Newport News.	Stoney Run-Denbigh Branch.	Just downstream of Richneck Road	None	+27
			Just downstream of McManus Boulevard	None	+33

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.
∧ Mean Sea Level, rounded to-the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Newport News

Maps are available for inspection at The Department of Engineering, 2400 Washington Avenue, Newport News, VA 23607.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: August 8, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–20985 Filed 8–24–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1083]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On December 16, 2009, FEMA published in the **Federal Register** a proposed rule that included an erroneous flooding source name for the Town of Livonia in Pointe Coupee Parish, Louisiana. The flooding source name of Bayou Fordoche, in effect for the location approximately 0.47 mile downstream of I–190 and approximately 1.21 miles upstream of I–190 should have been listed as Bayou Grosse Tete.

DATES: Comments pertaining to the Bayou Grosse Tete Base Flood Elevations for the location approximately 0.47 mile downstream of I–190 and approximately 1.21 miles upstream of I–190 are to be submitted on or before November 26, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1083, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Correction

In the proposed rule published at 74 FR 66602, in the December 16, 2009, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Pointe Coupee Parish, Louisiana, and Incorporated Areas" addressed several flooding sources, including Bayou Fordoche. The proposed rule incorrectly listed the flooding source name, Bayou Fordoche, for the location approximately 0.47 mile downstream of I–190 and approximately 1.21 miles upstream of I–190. The correct flooding source name is Bayou Grosse Tete. This proposed rule correction is reopening the comment period for Bayou Grosse Tete, for the location approximately 0.47 mile downstream of I–190 and approximately 1.21 miles upstream of I–190, due to the error in listing the flooding source name in the previously published proposed rule at 74 FR 66602.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: August 8, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–20981 Filed 8–24–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1145]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On October 7, 2010, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 75 FR 62061. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Cecil County, Maryland, and Incorporated Areas. Specifically, it addresses the following flooding sources: Back Creek, Big Elk Creek, Bohemia River, Chesapeake and Delaware Canal, Christina River, Dogwood Run, Gravelly Run, Hall Creek, Herring Creek, Laurel Run, Little Bohemia Creek, Little Elk Creek, Little Northeast Creek, Long Creek, Mill Creek, Mill Creek (Tributary to Little Elk Creek), Northeast Creek, Perch Creek, Plum Creek, Susquehanna River, Tributary 1 to Stone Run, Unnamed Tributary to Laurel Run, West Branch Christina River, and West Branch Laurel Run.

DATES: Comments are to be submitted on or before November 26, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1145, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Corrections

In the proposed rule published at 75 FR 62061, in the October 7, 2010, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Cecil County, Maryland, and Incorporated Areas" addressed the following flooding sources: Back Creek, Big Elk Creek, Bohemia River, Chesapeake and Delaware Canal, Christina Creek, Dogwood Run, Gravelly Run, Hall Creek, Herring Creek, Laurel Run, Little Bohemia Creek, Little Elk Creek, Little Northeast Creek, Long Creek, Mill Creek, Mill Creek (Tributary to Little Elk Creek), Northeast Creek, Perch Creek, Plum Creek, Susquehanna River, Tributary 1 to Stone Run, Unnamed Tributary to Laurel Run, West Branch Christina River, and West Branch Laurel Run.

That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for the following flooding sources: Big Elk Creek, Christina Creek, Dogwood Run, Little Elk Creek, Little Northeast Creek, Mill Creek, Northeast Creek, Tributary 1 to Stone Run, and West Branch Christina River. It also did not include the flooding source Tributary 2 to Stone Run, and the flooding source Christina River was erroneously referred to as Christina Creek. Additionally, the Town of Perryville has been added as a community affected by Mill Creek. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD)	+ Elevation in feet (NAVD)	# Depth in feet above ground
Cecil County, Maryland, and Incorporated Areas				
Back Creek	Approximately 224 feet downstream of 2nd Street	None	+11	Unincorporated Areas of Cecil County.
	Approximately 1,136 feet upstream of Old Telegraph Road.	None	+11	
Big Elk Creek	Approximately 0.68 mile downstream of West Pulaski Road.	None	+11	Town of Elkton, Unincorporated Areas of Cecil County.
	Approximately 1,140 feet downstream of Elk Mills Road.	None	+81	
Bohemia River	At Augustine Herman Highway	None	+11	Unincorporated Areas of Cecil County.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD)	+ Elevation in feet (NAVD)	# Depth in feet above ground
	Approximately 860 feet upstream of Old Telegraph Road.	None	+11	
Chesapeake and Delaware Canal.	Approximately 0.92 mile upstream of Augustine Herman Highway.	None	+11	Unincorporated Areas of Cecil County.
	Approximately 1.96 miles upstream of Augustine Herman Highway.	None	+11	
Christina River	At the New Castle County boundary	+159	+160	Unincorporated Areas of Cecil County.
	Approximately 100 feet downstream of the Chester County boundary.	+267	+268	
Dogwood Run	At the Little Elk Creek confluence	+21	+22	Town of Elkton, Unincorporated Areas of Cecil County.
	Approximately 60 feet downstream of Blue Ball Road	+30	+27	
Gravelly Run	At the Little Elk Creek confluence	None	+50	Unincorporated Areas of Cecil County.
	Approximately 246 feet downstream of Blue Ball Road.	None	+57	
Hall Creek	At Glebe Road	None	+11	Unincorporated Areas of Cecil County.
	Approximately 0.86 mile upstream of Mill Lane	None	+11	
Herring Creek	Approximately 2.74 miles downstream of Augustine Herman Highway.	None	+11	Unincorporated Areas of Cecil County.
	Approximately 1,609 feet downstream of Augustine Herman Highway.	None	+11	
Laurel Run	At the Little Elk Creek confluence	None	+40	Unincorporated Areas of Cecil County.
	Approximately 1,500 feet downstream of the West Branch Laurel Run confluence.	None	+59	
Little Bohemia Creek	At the Bohemia Creek confluence	None	+11	Unincorporated Areas of Cecil County.
	At Bohemia Church Road	None	+11	
Little Elk Creek	Approximately 631 feet downstream of West Pulaski Highway.	+11	+14	Town of Elkton, Unincorporated Areas of Cecil County.
	Approximately 1,220 feet downstream of Elkton Road	+15	+16	
Little Elk Creek	Approximately 425 feet downstream of the Laurel Run confluence.	None	+39	Unincorporated Areas of Cecil County.
	Approximately 910 feet downstream of Heron Lane	None	+58	
Little Northeast Creek	Approximately 210 feet upstream of Pulaski Highway	+37	+38	Unincorporated Areas of Cecil County.
	Approximately 757 feet downstream of Chessie System Railroad.	+76	+74	
Long Creek	At Boat Yard Road	None	+11	Unincorporated Areas of Cecil County.
	At Woods Road	None	+11	
Mill Creek	Approximately 1,095 feet downstream of Access Road.	+11	+12	Town of Perryville, Unincorporated Areas of Cecil County.
	Approximately 260 feet downstream of Principio Road	+283	+284	
Mill Creek (Tributary to Little Elk Creek).	Approximately 1,624 feet downstream of Old Elk Neck Road.	None	+11	Unincorporated Areas of Cecil County.
	Approximately 1,939 feet upstream of Old Elk Neck Road.	None	+11	
Northeast Creek	Approximately 542 feet downstream of Main Street	+11	+12	Town of North East, Unincorporated Areas of Cecil County.
	Approximately 125 feet downstream of Chessie System Railroad.	+71	+72	
Perch Creek	Approximately 0.49 mile downstream of Augustine Herman Highway.	None	+11	Unincorporated Areas of Cecil County.
	At Augustine Herman Highway	None	+11	
Plum Creek	Approximately 1.32 miles downstream of Old Field Point Road.	None	+11	Unincorporated Areas of Cecil County.
	Approximately 1,154 feet upstream of Old Elk Neck Road.	None	+11	
Susquehanna River	Approximately 1.75 miles upstream of I-95	+11	+12	Unincorporated Areas of Cecil County.
	At U.S. Route 1	+37	+38	
Tributary 1 to Stone Run	At the Stone Run confluence	+274	+271	Town of Rising Sun, Unincorporated Areas of Cecil County.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD)	+ Elevation in feet (NAVD)	# Depth in feet above ground
Tributary 2 to Stone Run	Approximately 460 feet downstream of Pierce Road ..	None	+359	Town of Rising Sun, Unincorporated Areas of Cecil County.
	At the Stone Run confluence	+274	+271	
	At the upstream side of Harrington Drive	+310	+312	
Unnamed Tributary to Laurel Run.	Approximately 230 feet upstream of the Laurel Run confluence.	None	+41	Unincorporated Areas of Cecil County.
	Approximately 1,400 feet upstream of the Laurel Run confluence.	None	+52	
West Branch Christina River	Approximately 600 feet upstream of the Newcastle County boundary.	+107	+108	Unincorporated Areas of Cecil County.
	Approximately 250 feet upstream of Jackson Hall School Road.	+195	+193	
West Branch Laurel Run	Approximately 494 feet upstream of the Laurel Run confluence.	None	+64	Unincorporated Areas of Cecil County.
	Approximately 93 feet upstream of Marley Road	None	+74	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.
^ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Town of Elkton

Maps are available for inspection at the Municipal Building, 100 Railroad Avenue, Elkton, MD 21921.

Town of North East

Maps are available for inspection at the Town Hall, 106 South Main Street, North East, MD 21901.

Town of Perryville

Maps are available for inspection at the Municipal Building, 515 Broad Street, Perryville, MD 21903.

Town of Rising Sun

Maps are available for inspection at the Municipal Building, 1 East Main Street, Rising Sun, MD 21911.

Unincorporated Areas of Cecil County

Maps are available for inspection at the Cecil County Office of Planning and Zoning, 200 Chesapeake Boulevard, Suite 2300, Elkton, MD 21921.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: August 8, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–20984 Filed 8–24–12; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register
Vol. 77, No. 166
Monday, August 27, 2012

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 22, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the 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 burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of publication of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Agricultural Resource Management, Chemical Use, and Post-harvest Chemical Use Surveys.

OMB Control Number: 0535–0218.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to provide the public with timely and reliable agricultural production and economic statistics, as well as environmental and specialty agricultural related statistics. Three surveys—the Agricultural Resource Management Study, the Fruit and Vegetable Chemical Use Surveys, and the Post-harvest Chemical Use Survey—are critical to NASS' ability to fulfill these objectives and to build the congressionally mandated database on agricultural chemical use and related farm practices. NASS uses a variety of survey instruments to collect the information in conjunction with these studies.

Need and Use of the Information: The Agricultural Resource Management Study provides a robust data base of information to address varied needs of policy makers. There are many uses for the information from this study including an evaluation of the safety of the Nation's food supply; input to the farm sector portion of the gross domestic product; and to provide a barometer on the financial condition of farm businesses. Data from the Fruit and Vegetable Chemical Use Surveys is used to assess the environmental and economic implications of various program and policies and the impact on agricultural producers and consumers. The results of the Post-harvest Chemical Use Survey are used by the Environmental Protection Agency (EPA) to develop Food Quality Protection Act risk assessments. Other organizations use this data to make sound regulatory decisions.

Description of Respondents: Farms.

Number of Respondents: 120,633.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 70,840.

National Agricultural Statistics Service

Title: Egg, Chicken, and Turkey Surveys.

OMB Control Number: 0535–0004.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Thousands of farmers, ranchers, agribusinesses and others voluntarily respond to nationwide surveys about crops, livestock, prices, and other agricultural activities. Estimates of egg, chicken, and turkey production are in an integral part of this program. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. This statue specifies the "The Secretary of Agriculture shall procure and preserve all information concerning agriculture which she can obtain * * * by the collection of statistics * * * and shall distribute them among agriculturists". Information published from the surveys in this docket is needed by USDA economists and government policy makers to ensure the orderly marketing of broilers, turkeys and eggs.

Need and Use of the Information: Statistics on these poultry products contribute to a comprehensive program of keeping the government and poultry industry abreast of anticipated changes. All of the poultry reports are used by producers, processors, feed dealers, and others in the marketing and supply channels as a basis for their production and marketing decisions.

Description of Respondents: Farms; Business or other for profit.

Number of Respondents: 2,855.

Frequency of Responses: Reporting: Weekly; Monthly; Annually.

Total Burden Hours: 3,675.

National Agricultural Statistics Service

Title: Floriculture Survey.

OMB Control Number: 0535–0093.

Summary of Collection: The primary function of the National Agricultural Statistics (NASS) is to prepare current official state and national estimates of crop and livestock production. Since 1985 Congress has provided funds to conduct an annual Commercial Floriculture Survey which obtains data on this important and growing industry. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. This statute specifies that "The Secretary of Agriculture shall procure and preserve all information concerning agriculture which can be obtain by the collection of

statistics * * * and shall distribute them among agriculturists". The floriculture industry accounted for more than $8.6 billion in agricultural cash receipts at the U.S. level.

Need and Use of the Information: NASS will collect information to assess alternative agriculture opportunities. Data from the survey will provide statistics for Federal and State agencies to monitor the use of agricultural chemicals. If the information is not collected data users could not keep abreast of changes.

Description of Respondents: Farms; Business or other-for-profit.

Number of Respondents: 9,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 4,464.

National Agricultural Statistics Service

Title: Mink Survey.

OMB Control Number: 0535–0212.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Statistics on mink production are published for the 15 major states that account for 95 percent of the U.S. production. There is no other source for this type of information. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: NASS collects information on mink pelts produced by color, number of females bred to produce kits the following year, number of mink farms, average marketing price, and the value of pelts produced. The data is disseminated by NASS in the Mink Report and is used by the U.S. government and other groups.

Description of Respondents: Farms.

Number of Respondents: 350.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 89.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–21002 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 22, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the 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 burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela_Beverly_OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

Title: Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Funds.

OMB Control Number: 0524–0036.

Summary of Collection: Section 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) requires that a plan of work must be submitted by each institution and approved by the National Institute of Food and Agriculture (NIFA) before formula funds may be provided to the 1862 and 1890 land-grant institutions. The plan of work must address critical agricultural issues in the State and describe the programs and project targeted to address these issues using the NIFA formula funds. The plan of work also must describe the institution's multistate activities as well as their integrated research and extension activities.

NIFA is requesting to continue to collect an update to the 5-Year Plan of Work which began with the Fiscal Year 2007, and as a result no longer needs to collect the initial 5-Year Plan. Also, as required by the Food Conservation and Energy Act of 2008 (FCEA) (Pub. L. 110–246, Sec. 7505), NIFA is working with the university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements.

Need and Use of the Information: Institutions are required to annually report to NIFA the following: (1) The actions taken to seek stakeholder input to encourage their participation; (2) a brief statement of the process used by the recipient institution to identify individuals or groups who are stakeholders and to collect input from them; and (3) a statement of how collected input was considered. NIFA uses the information to provide feedback to the institutions on their Plans of Work and Annual Reports of Accomplishments and Results in order for institutions to improve the conduct and the delivery of their programs. Failure to comply with the requirements may result in the withholding of a recipient institution's formula funds and redistribution of its share of formula funds to other eligible institutions.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 48,600.

National Institute of Food and Agriculture

Title: NIFA Grant Application.

OMB Control Number: 0524–0039.

Summary of Collection: The United States Department of Agriculture (USDA), National Institute of Food and Agriculture (NIFA) sponsors ongoing agricultural research, education, and extension programs under which competitive, formula, and special awards of a high-priority nature are made These programs are authorized pursuant to the authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3101), the Smith-Lever Act, and other legislative authorities. Before awards can be made, certain information is required from applicants as part of an overall application. In addition to a project summary, proposal narrative, vitae of key personnel, and other pertinent technical aspects of the proposed

project, supporting documentation of an administrative and budgetary nature also must be provided. This information is obtained via applications through the use of federal-wide standard grant application forms and NIFA specific application forms. Because competitive applications are submitted, many of which necessitate review by peer panelists, it is particularly important that applicants provide the information in a standardized fashion to ensure equitable treatment for all.

Need and Use of the Information: The fundamental purpose of the information requested is for USDA proposal evaluation, award, management, reporting, and recordkeeping, as part of the overall administration of the research, education, and extension programs administered by NIFA. In addition to federal-wide standard grant application forms, NIFA will use the following program and agency specific components as part of its application package: Supplemental Information Form; Application Type Form; Application Modification Form; Form NIFA–2008, Assurance Statement(s); Form NIFA–2010, Fellowships/Scholarships Entry/Annual Update/Exit Form.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Individuals or household; Federal Government; State, Local or Tribal Government.

Number of Respondents: 6,150.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 14,388.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–21003 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document No. AMS–FV–11–0050, FV–12–328]

United States Standards for Grades of Grapefruit Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) has revised the United States Standards for Grades of Grapefruit Juice. The grade standards for grapefruit juice have been changed to remove the parameters for maximum "free and suspended pulp" to account for advances in industry processing technology.

DATES: *Effective Date:* September 26, 2012.

FOR FURTHER INFORMATION CONTACT: Brian E. Griffin, Inspection and Standardization Branch, Processed Products Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 0709, South Building; STOP 0247, Washington, DC 20250; fax: (202) 690–1527; or Internet at *http://www.regulations.gov*. The U.S. Standards for Grades of Grapefruit Juice are available through the address cited above and on the AMS Web site at *http://www.ams.usda.gov/AMSv1.0/processedinspection*.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1624–1627), as amended, directs and authorizes the Secretary of Agriculture "to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices."

AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official grade standards available upon request. Those voluntary U.S. Standards for Grades of Fruits and Vegetables no longer appear in the Code of Federal Regulations, 7 CFR part 52, but are maintained by USDA, AMS, Fruit and Vegetable Programs. AMS is revising the U.S. Standards for Grades of Grapefruit Juice using the procedures that appear in part 36 of Title 7 of the Code of Federal Regulations (7 CFR part 36).

Background

AMS received a petition from the Florida Citrus Processors Association, an association of citrus producers, requesting revisions to the U.S. Standards for Grades of Grapefruit Juice. The petitioner requested the removal of the maximum limit for "free and suspended pulp" (referred to in the industry as "sinking pulp") from the U.S. grade standards for all forms of grapefruit juice.

The grade standards, effective since September 12, 1983, provided that grapefruit juice from concentrate, grapefruit juice, and frozen concentrated grapefruit juice establish limits for maximum free and suspended pulp as follows: "Grade A"—10 percent by volume, and "Grade B"—15 percent by volume. Concentrated grapefruit juice for manufacturing requirements for maximum free and suspended pulp are as follows: "Grade A"—10 percent by volume, and "Grade B"—12 percent by volume.

The petitioner believes that, with respect to maximum values for "free and suspended pulp", the existing U.S. Standards for Grades of Grapefruit Juice do not take into account modern extraction and finishing technologies, nor are they supported by evidence of a correlation between these criteria and acceptable flavor. The petitioner also believes that removing the "free and suspended pulp" values from the grade standards would allow processors to process the entire grapefruit crop without resorting to expensive technologies that increase the cost of juice with no concomitant benefit. More mature grapefruit tends to be sweeter, but when juiced, tends to cause the product to exceed maximum free and suspended pulp values.

Processing technologies used in the early 1940s were considerably different than the technologies in place today. In the developmental stages of the citrus industry, the amount of sinking pulp was an indication of excessive pressures used in extraction and finishing of citrus juice, resulting in bitter flavor. It was noted that sinking pulp levels could be correlated to bitter flavor. The bitter flavors are due to the naturally occurring naringin and limonin components found in grapefruit juice. Although bitterness is an inherent contributor to what we know as "grapefruit flavor," an excessive amount of bitterness can be objectionable to some consumers.

Current industry practices have shown us that sinking pulp levels can be greatly influenced by modern processing techniques, which eliminate the correlation between sinking pulp and excessive bitterness.

The petitioner submitted research data covering a six season period which illustrates levels of sinking pulp vs. naringin, and levels of sinking pulp vs. limonin using variations in extractor settings. The petitioner also submitted data on a sensory evaluation performed by the University of Florida on consumer acceptability of grapefruit juice with two free and suspended pulp levels. The petitioner's research data supports the premise that modern extraction and finishing technologies produce a product where there is no correlation between grapefruit juice flavor components associated with bitter and off flavor i.e., naringin and limonin, and free and suspended pulp levels.

Prior to undertaking research and other work associated with revising the

grade standards, AMS sought public comments on the petition (see 76 FR 51343).

Two comments were received regarding this petition. One comment was from a trade association with international membership; and one comment was from a trade association in the U.S. representing over 8,000 citrus growers. Both comments were in support of the petition to remove the maximum limit for "free and suspended pulp" from the U.S. Standards for Grades of Grapefruit Juice.

AMS sought public comments a second time on the petition (see 77 FR 6773). One comment was received regarding this petition from a trade association with international membership in support of the petition to remove the maximum limit for "free and suspended pulp" from the U.S. Standards for Grades of Grapefruit Juice.

This revision of the U.S. Standards for Grades of Grapefruit Juice better reflects the current industry processing technology for grapefruit juice.

Authority: 7 U.S.C. 1621–1627.

Dated: August 21, 2012.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2012–21054 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection Request; Farm Loan Programs, Direct Loan Making

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension and a revision of a currently approved information collection that supports Direct Loan Making programs. The information collection is in support of 7 CFR part 764, which sets forth the manner for a person may apply to FSA for Direct Loan Assistance. A new form is being added to this request to streamline the loan process.

DATES: We will consider comments that we receive by October 26, 2012.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection. You may submit comments by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Michael Moore, Senior Loan Officer, USDA, FSA, LMD, STOP 0522, 1400 Independence Ave. SW., Washington, DC 20250–0522.

Email: *michael.moore@wdc.usda.gov.*

Fax: (202) 720–6797

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Michael Moore at the above address.

FOR FURTHER INFORMATION CONTACT: Michael Moore, Senior Loan Officer, Farm Service Agency (202) 690–0651. Persons with disabilities who require alternative mean for communication (Braille, large print, audio tape, etc.) should contact the USDA's TARGET Center at (202)720–2600 (Voice and TDD).

SUPPLEMENTARY INFORMATION:

Title: Farm Loan Programs Direct Loan Making.

OMB Control Number: 0560–0237.

Expiration Date of Approval: February 28, 2014.

Type of Request: Revision and extension of a currently approved information collection.

Abstract: FSA's Farm Loan Programs provide loans to family farmers to buy real estate and equipment, and finance agricultural production. Direct Loan Making, as specified in 7 CFR part 764, provides the requirements associated with direct loans. FSA is required to actively supervise its borrowers and provide credit counseling, management advice, and financial guidance. Additionally, FSA must document that credit is not available to the borrower from commercial credit sources in order to maintain eligibility for assistance. Direct loan making information collection requirements include financial and production records of the operation to ensure that cash flow projections are based on actual production history, a loan is adequately secured, the applicant meets established eligibility requirements, and assignments on income and sales can be obtained when appropriate.

FSA is adding a new form to this information collection request. The new form is the FSA–2314 Streamlined Request for Direct OL Assistance. The new form is a streamlined version of a current form that will be used by some respondents. The burden hours have decreased due to lower number of responses by the current participants.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average 48 minutes per response. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

Respondents: Producers.

Estimated Number of Respondents: 181,922.

Estimated Annual Number of Forms per Person: 3.6.

Estimated Total Annual Responses: 667,543.

Estimated Total Annual Burden Hours: 320,891.

We are requesting comments on all aspects of this information collection to help us to:

(1) Determine whether the continued collection of information is still necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Assess the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; 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.

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

Signed on August 7, 2012.

Carolyn B. Cooksie,

Acting Administrator, Farm Service Agency.

[FR Doc. 2012–20950 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses for the 2013 Tariff-Rate Import Quota Year

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces a fee of $170 to be charged for the 2013 tariff-

rate quota (TRQ) year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles, which are subject to tariff-rate quotas set forth in the Harmonized Tariff Schedule (HTS) of the United States.

DATES: August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Abdelsalam El-Farra, Dairy Import Licensing Program, Import Policies and Export Reporting Division, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–1021 or telephone at (202) 720–9439 or email at *abdelsalam.el-farra@fas.usda.gov*.

SUPPLEMENTARY INFORMATION: The Dairy Tariff-Rate Import Quota Licensing Regulation promulgated by the Department of Agriculture and codified at 7 CFR 6.20–6.37 provides for the issuance of licenses to import certain dairy articles that are subject to TRQs set forth in the HTS. Those dairy articles may only be entered into the United States at the in-quota TRQ tariff-rates by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The use of such licenses is monitored by the Dairy Import Licensing Program, Import Programs and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, and the U.S. Customs and Border Protection, U.S. Department of Homeland Security.

The regulation at 7 CFR 6.33(a) provides that a fee will be charged for each license issued to a person or firm by the Licensing Authority in order to defray the Department of Agriculture's costs of administering the licensing system under this regulation.

The regulation at 7 CFR 6.33(a) also provides that the Licensing Authority will announce the annual fee for each license and that such fee will be set out in a notice to be published in the **Federal Register**. Accordingly, this notice sets out the fee for the licenses to be issued for the 2013 calendar year.

Notice: The total cost to the Department of Agriculture of administering the licensing system for 2013 has been estimated to be $440,280.00 and the estimated number of licenses expected to be issued is 2,594. Of the total cost, $ 315,000.00 represents staff and supervisory costs directly related to administering the licensing system, and $125,280.00 represents other miscellaneous costs, including travel, postage, publications, forms, and ADP system support.

Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 2013 calendar year, in accordance with 7 CFR 6.33, will be $170 per license.

Issued at Washington, DC, the 13th day of July, 2012.

Ronald Lord,

Licensing Authority.

[FR Doc. 2012–20941 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou, or Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou, OR Resource Advisory Committee will meet in Kerby, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and recommend projects submitted for funding under Title II of The Secure Rural Schools and Community Self Determination Act of 2000, review existing projects, and elect a chairperson.

DATES: The meeting will be held September 21, 2012, 8:30 a.m..

ADDRESSES: The meeting will be held at Rogue Community College, Illinois Valley Learning Center, Kerby Belt Building, 24353 Redwood Highway, Kerby, Oregon 97531. Written comments may be submitted as described under Supplementary Information.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Medford Interagency Office, 3040 Biddle Road, Medford, OR 97504. Please call ahead to (541) 618–2113 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Virginia Gibbons, Public Affairs Officer, Rogue River-Siskiyou National Forest, (541) 618–2113, *vgibbons@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accomodation for access to the facility or procedings may be made by contacting the person listed For Further Information.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Elect new Chairperson; review status of FY2009, FY2010, FY2011, and FY2012 projects selected by the Siskiyou, OR Resource Advisory Committee; review and recommend FY2013 projects to the Designated Federal Official. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include a public forum period providing individuals the opportunity to make oral statements of three minutes or less.

Dated: August 20, 2012.

Donna M. Mickley,

Acting Deputy Forest Supervisor.

[FR Doc. 2012–20993 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Medbow-Routt Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The MedBow-Routt Resource Advisory Committee will meet in Walden, Colorado. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 112–141) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and recommend projects authorized under title II of the Act, as well as to update RAC members on the progress of previously approved projects.

DATES: The meeting will be held September 13, 2012 at 10 a.m., Mountain Standard Time.

ADDRESSES: The meeting will be held at the Parks Ranger District Office, P.O. Box 158, 100 Main St., Walden, Colorado 80480. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Forest Supervisor's Office, 2468 Jackson Street, Laramie, Wyoming. Please call ahead to 307–745–2300 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Aaron Voos, RAC Coordinator, 2468 Jackson Street, Laramie, Wyoming 82070, 307–745–2323 or *atvoos@fs.fed.us*. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: Review of the status of approved projects; discussion of travel reimbursement, review and discussion of new project proposal and public forum discussion. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. A public input session during the meeting will be provided and individuals who made written requests by Sept. 7, 2012 will have the opportunity to address the Committee at that session. Written comments should be sent to Phil Cruz, RAC DFO, 2468 Jackson Street, Laramie, Wyoming 82070. Comments may also be sent via email to *pcruz@fs.fed.us*, or via facsimile to 307–745–2467. For more information about the MedBow-Routt RAC, visit *http://www.fs.usda.gov/goto/mbr/advisorycommittee*. A summary of the meeting will be posted at the above Web site within 21 days of the meeting.

Meeting Accommodations: If you require sign language interpreting, assistive listening devices or other reasonable accommodation for access to the meeting please request this in advance by contacting the person listed in the section titled For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 20, 2012.

Phil Cruz,

Forest Supervisor.

[FR Doc. 2012–20979 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Daniel Boone National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Daniel Boone National Forest Resource Advisory Committee (RAC) will meet in London, Kentucky. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 112–141) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and recommend projects authorized under title II of the Act.

DATES: The meeting will be held on September 18, 2012 beginning at 6 p.m.

ADDRESSES: The meeting will be held at the Cumberland Valley Area Development District, 342 Old Whitley Road, London, Kentucky 40744 in a meeting room on the basement floor.

Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Daniel Boone National Forest, 1700 Bypass Road, Winchester, Kentucky 40391. Please call ahead to 859–745–3100 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Kimberly Morgan, RAC Coordinator, Daniel Boone National Forest, 1700 Bypass Road, Winchester, Kentucky 40391; 859–745–3100; email *kmorgan@fs.fed.us*. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Committee updates, status of 2011 approved projects, submitted projects, discussion of projects, and approval recommendations. The full agenda may be previewed at *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf*. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before the meeting. The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 14, 2012 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to 1700 Bypass Road, Winchester, Kentucky 40391 or by email to *kmorgan@fs.fed.us* or via facsimile to 859–744–1568. A summary of the meeting will be posted at the above Web site within 21 days of the meeting.

Meeting Accommodations: If you require sign language interpreting, assistive listening devices or other reasonable accommodations please request this in advance of the meeting by contacting the person listed in the section titled For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 20, 2012.

Marie T. Walker,

Acting Forest Supervisor, Daniel Boone National Forest.

[FR Doc. 2012–21012 Filed 8–24–12; 8:45 am]

BILLING CODE 3410–11–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: Implementation of Vessel Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales.

OMB Control Number: 0648–0580.

Form Number(s): NA.

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

Number of Respondents: 3,047.

Average Hours per Response: 5 minutes.

Burden Hours: 254

Needs and Uses: This request is for an extension of a currently approved information collection.

On October 10, 2008, NMFS published a final rule implementing

speed restrictions to reduce the incidence and severity of ship collisions with North Atlantic right whales (73 FR 60173). That final rule contained a collection-of-information requirement subject to the Paperwork Reduction act (PRA). Specifically, 50 CFR 224.105(c) requires a logbook entry to document that a deviation from the 10-knot speed limit was necessary for safe maneuverability under certain conditions: because the vessel is in an area where oceanographic, hydrographic and/or meteorological conditions severely restrict the maneuverability of the vessel and the need to operate at such speed is confirmed by the pilot on board or, when a vessel is not carrying a pilot, the master of the vessel.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

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 22, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–20975 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Final Results and Final Rescission in Part

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

SUMMARY: On October 24, 2011, the Department of Commerce (Department) published in the **Federal Register** its preliminary results of the administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China (PRC), covering the period January 1, 2010 through December 31, 2010.[1] We gave interested parties an opportunity to comment on the *Preliminary Results.* Based on the analysis of the record and the comments received, the Department is rescinding the review with respect to Tube-Smith Enterprises (ZhangZhou) Co., Ltd., Tube-Smith Enterprise (Haimen) Co., Ltd., and Billionworth Enterprise, Ltd. (collectively, Tube-Smith).

DATES: *Effective Date:* August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Rebecca Pandolph, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3627.

Background

On November 23, 2011, Petitioners[2] and Amini Innovation Corp. (Amini) submitted case briefs to the Department. On November 28, 2011, Tube-Smith filed a letter in lieu of a rebuttal brief with the Department.

On November 23, 2011, Amini requested that the Department conduct a hearing in the above-referenced review.[3] On December 8, 2011, Amini informed the Department that it no longer requested a hearing and counsel for Amini requested a meeting with Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.[4] On December 14, 2011, counsel for Amini met with the Department.[5]

On December 20, 2011, the Department received a separate rate certification from Baigou Crafts Factory of Fengkai. On December 29, 2011, the Department rejected the separate rate certification as untimely.[6]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Results of the 2010 Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China," dated August 20, 2012, which is hereby adopted by this notice (Issues and Decision Memorandum). A list of the issues which parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit, Main Commerce Building, Room 7046, and is accessible on the Web at <*http://ia.ita.doc.gov/frn*>. The paper copy and electronic version of the memorandum are identical in content.

Period of Review

The period of review (POR) is January 1, 2010, through December 31, 2010.

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds,

[1] *See Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part,* 76 FR 65684 (October 24, 2011) (*Preliminary Results*).

[2] Petitioners are the American Furniture Manufactures Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (Petitioners).

[3] *See* letter from Amini to the Honorable John Bryson, Acting Secretary of Commerce regarding, "Wooden Bedroom Furniture from the People's Republic of China; *Administrative Review for the Period January 1, 2010 to December 31, 2010,*" dated November 23, 2011.

[4] *See* Memorandum to the File from Rebecca Pandolph, International Trade Compliance Analyst, Office 4, AD/CVD Operations, regarding, "Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China for the January 1, 2010 to December 31, 2010 period," dated December 9, 2011.

[5] *See* Memorandum to the File regarding 2010 Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China: *Ex Parte* Meeting," dated December 14, 2011.

[6] *See* letter from Abdelali Elouaradia, Director, Office 4, AD/CVD Operations to Baigou Crafts Factory of Fengkai regarding, dated December 29, 2011.

wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,[7] highboys,[8] lowboys,[9] chests of drawers,[10] chests,[11] door chests,[12] chiffoniers,[13] hutches,[14] and armoires;[15] (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) Seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate; [16] (9) jewelry armories; [17] (10) cheval mirrors; [18] (11) certain metal parts; [19] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds [20] and (14) toy boxes.[21]

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the U.S. Harmonized Tariff Schedule (HTSUS) as "wooden * * * beds" and under subheading 9403.50.9080 of the HTSUS as "other * * * wooden furniture of a kind used in the bedroom." In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as "parts of wood." Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as "glass mirrors * * * framed." The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Separate Rates

Companies Not Providing Separate Rate Certifications or Applications

In the *Preliminary Results*, we stated that the following 14 companies or

[7] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[8] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[9] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[10] A chest of drawers is typically a case containing drawers for storing clothing.

[11] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[12] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[13] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[14] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[15] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

[16] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. *See* CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

[17] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. *See* Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, concerning "Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China," dated August 31, 2004. *See also Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part*, 71 FR 38621 (July 7, 2006).

[18] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches. mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

[19] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

[20] Upholstered beds that are completely upholstered, *i.e.*, containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 72 FR 7013 (February 14, 2007).

[21] To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (ASTM) standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum "Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box," dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

company groupings for which the Department initiated the instant review did not provide a separate rate certification or application and therefore have not demonstrated their eligibility for separate rate status in this administrative review:

- Dongguan Bon Ten Furniture Co., Ltd.
- Dongguan Grand Style Furniture Co. Ltd.; Hong Kong Da Zhi Furniture Co., Ltd.
- Dongguan Hero Way Woodwork Co., Ltd.; Dongguan Da Zhong Woodwork Co., Ltd.; Hero Way Enterprises Ltd.; Well Earth International Ltd.
- Dongguan Mu Si Furniture Co., Ltd.
- Hainan Jong Bao Lumber Co., Ltd.; Jibbon Enterprise Co., Ltd.
- Kuan Lin Furniture (Dong Guan) Co., Ltd.; Kuan Lin Furniture Factory; Kuan Lin Furniture Co., Ltd.
- Kunshan Lee Wood Product Co., Ltd.
- Leefu Wood (Dongguan) Co., Ltd.; King Rich International, Ltd.
- Meikangchi (Nantong) Furniture Company Ltd.
- Nantong Dongfang Orient Furniture Co., Ltd.
- Shanghai Fangjia Industry Co. Ltd.
- Winny Overseas, Ltd.; Zhongshan Winny Furniture Ltd.; Winny Universal Ltd.
- Zhong Shan Fullwin Furniture Co., Ltd.
- Zhongshan Gainwell Furniture Co. Ltd.

In the *Preliminary Results*, we also found that (1) Baigou Crafts Factory of Fengkai, (2) Locke Furniture Factory; Kai Chan Furniture Co., Ltd.; Kai Chan (Hong Kong) Enterprise Ltd.; Taiwan Kai Chan Co., Ltd, (collectively, Locke Furniture Factory) and (3) Zhangjiang Sunwin Arts & Crafts Co., Ltd. (Sunwin) had shipped subject merchandise during the POR despite reporting that they made no shipments of subject merchandise to the United States during the POR. Because these companies had not timely filed separate rate certifications or applications, thereby failing to provide separate rate information and demonstrate their eligibility for a separate rate, we treated these companies as part of the PRC-wide entity. Since the *Preliminary Results*, no interested parties submitted comments regarding the companies listed above. Therefore, for the final results, we continue to treat these entities as part of the PRC-Wide entity.

Final Partial Rescission of Administrative Review

The Department has reconsidered the facts of this case and the arguments made by interested parties. Based on the particular fact pattern present here, and for the reasons stated in the Issues and Decision Memorandum, the Department is rescinding the administrative review with respect to Tube-Smith.[22]

In the *Preliminary Results*, the Department stated its intent to rescind the administrative review with respect to the following companies because they all reported that they made no shipments during the POR.

- Hangzhou Cadman Trading Co., Ltd.
- Dongguan Huangsheng Furniture Co., Ltd.
- Golden Well International (HK) Ltd.
- Zhejiang Tianyi Scientific and Educational Equipment Co., Ltd.

No parties commented on our intent to rescind. Because there is no information or argument on the record of the current review that warrants reconsidering our intent to rescind, we are rescinding this administrative review with respect to the above-listed companies.

In the *Preliminary Results*, the Department also stated its intent to rescind the administrative review with respect to the following companies, which were part of the PRC-wide entity during the POR, because all requesting parties withdrew their respective requests for an administrative review within 90 days of the date of publication of the notice of initiation:

- Brother Furniture Manufacture Co., Ltd.[23]
- C.F. Kent Co., Inc.
- C.F. Kent Hospitality, Inc.
- Champion Sun Industries Limited
- Contact Co., Ltd.
- Denny's Furniture Associates Corp.
- Denny's International Co., Ltd.
- Der Cheng Furniture Co., Ltd.
- Der Cheng Wooden Works
- Dong Guan Golden Fortune Houseware Co., Ltd.[24]
- Dongguan Chunsan Wood Products Co., Ltd.[25]
- Dongguan Hua Ban Furniture Co., Ltd.[26]
- DongGuan Sundart Timber Products Co., Ltd
- Ever Spring Furniture Company Ltd.[27]
- Evershine Enterprise Co.
- Fleetwood Fine Furniture LP
- Fujian Putian Jinggong Furniture Co., Ltd.
- Gainwell Industries Limited
- Green River Wood (Dongguan) Ltd.[28]
- Guangdong Gainwell Industrial Furniture Co., Ltd.
- Hong Kong Jingbi Group
- Huasen Furniture Co., Ltd.
- Jiant Furniture Co., Ltd.
- King Kei Trading Company Limited[29]
- King's Way Furniture Industries Co., Ltd.[30]
- Kingsyear Ltd.[31]
- Longkou Huangshan Furniture Factory
- MoonArt Furniture Group
- MoonArt International Inc.
- Nanjing Jardine Enterprise, Ltd.
- Nanjing Nanmu Furniture Co., Ltd.[32]
- Nantong Wangzhuang Furniture Co., Ltd.

[22] *See* Issues and Decision Memorandum at Issue 1.

[23] Because Brother Furniture Manufacture Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[24] Because Dong Guan Golden Fortune Houseware Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[25] Because Dongguan Chunsan Wood Products Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[26] Because Dongguan Hua Ban Furniture Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[27] Because Ever Spring Furniture Company Ltd.; S.Y.C. Family Enterprise Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[28] Because Green River Wood (Dongguan) Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[29] Because King Kei Trading Company Limited lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[30] Because King's Way Furniture Industries Co., Ltd.; Kingsyear Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility or a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[31] Because King's Way Furniture Industries Co., Ltd.; Kingsyear Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility or a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[32] Because Nanjing Nanmu Furniture Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

- Ningbo Fubang Furniture Industries Limited
- Ningbo Furniture Industries Company Ltd.
- Ningbo Techniwood Furniture Industries Limited
- Northeast Lumber Co., Ltd.
- Passwell Wood Corporation
- S.Y.C. Family Enterprise Co., Ltd.[33]
- Senyuan Furniture Group
- Shanghai Aosen Furniture Co., Ltd.[34]
- Shanghai Hospitality Product Mfg., Co., Ltd.
- Shanghai Industries Group
- Shanghai Kent Furniture Co., Ltd.
- Shanghai Season Industry & Commerce Co., Ltd.
- Shanghai Zhiyi (Jiashun) Furniture Co., Ltd.
- Shanghai Zhiyi Furniture and Decoration Co., Ltd.
- Shaoxing Mengxing Furniture Co., Ltd.
- Starwood Furniture Manufacturing Co., Ltd.[35]
- Sundart International, Ltd.
- Techniwood (Macao Commercial Offshore) Limited
- Tradewinds International Enterprise Ltd.
- Trendex Industries Ltd.
- Wan Bao Chen Group Hong Kong Co., Ltd.[36]
- World Design International Co., Ltd.
- Xilinmen Furniture Co., Ltd.
- Xingli Arts & Crafts Factory of Yangchun[37]
- Yuexing Group Co., Ltd.
- Zhejiang Shaoxing Huaweimei Furniture Co., Ltd.
- Zhong Shan Heng Fu Furniture Co.
- Zhongshan Fengheng Furniture Co., Ltd.
- Zhongshan Yiming Furniture Co., Ltd.

No parties commented on our intent to rescind with respect to these companies. However, because as noted above, these companies were part of the PRC-wide entity during the POR, they have remained under review as part of the PRC-wide entity. Our determination with respect to the PRC-wide entity is explained below in the section entitled "Adverse Facts Available (AFA)."

Adverse Facts Available (AFA)

In the *Preliminary Results*, pursuant to sections 776(a)(2)(A) and (C) of the Tariff Act of 1930, as amended (the Act), the Department based the dumping margin of the PRC-wide entity on the facts otherwise available on the record. Additionally, the Department determined, pursuant to section 776(b) of the Act, that with respect to the PRC-wide entity the use of an adverse inference is warranted in selecting from the facts otherwise available. Consistent with its practice, the Department assigned a rate of 216.01 percent, the highest margin from any prior segment of the proceeding, to the PRC-wide entity as AFA.[38] No interested party commented on the rate assigned to the PRC-wide entity and we have made no changes from our *Preliminary Results* with respect to this issue.

As explained in the *Preliminary Results*, the Department corroborated the 216.01 percent rate pursuant to section 776(c) and considers the rate to be reliable and relevant with respect to the PRC-wide entity. Specifically, the Department found the rate to be reliable because it is a company-specific margin calculated in the 2004–2005 new shipper review of the wooden bedroom furniture order and no additional information was presented in the current review to call into question the reliability of the rate. We also found the rate to be relevant with respect to the PRC-wide entity because it is within the range of transaction-specific margins on the record of the two prior administrative reviews.[39] No party has commented on the Department's corroboration of the selected total AFA rate for the PRC-wide entity.

Final Results of the Review

We determine that the following weighted-average percentage margin exists for the POR:

Exporter	Antidumping duty percent margin
PRC-Wide Entity	216.01

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For Tube-Smith and the other entities for which the Department has rescinded this review which are not part of the PRC-wide entity, antidumping duties shall be assessed on period of review entries at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Antidumping duties shall be assessed on period of review entries from the PRC-wide entity at 216.01 percent.

In addition, pursuant to an injunction issued in *Legacy Classic Furniture, Inc.* v. *United States*, CIT No. 10–00352 on December 28, 2010, the Department must continue to suspend liquidations of entries of the heritage court bench (model 800–4800) which were imported by Legacy Classic Furniture, Inc. pending a conclusive court decision.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 216.01 percent; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit

[33] Because Ever Spring Furniture Company Ltd.; S.Y.C. Family Enterprise Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[34] Because Shanghai Aosen Furniture Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[35] Because Starwood Furniture Manufacturing Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[36] Because Wan Bao Chen Group Hong Kong Co., Ltd. lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[37] Because Xingli Arts & Crafts Factory of Yangchun lost its separate rate on August 18, 2010 (*see* 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

[38] *See Preliminary Results*, 76 FR 65684, 65691.

[39] *See Preliminary Results*, 76 FR 65684, 65692.

requirements, when imposed, shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 20, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

Issue 1: Whether the Department Should Rescind the Review of Tube-Smith

Issue 2: The Appropriate Rate To Assign to Tube-Smith

Issue 3: Whether the Department Misspelled Tube-Smith's Name in the Cash Deposit Instruction

Issue 4: Whether the Department Should Make Corrections to the PRC-Wide Liquidation Instructions.

[FR Doc. 2012–21043 Filed 8–24–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

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

DATES: *Effective Date:* August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482–3338.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) ("the Act") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the period April 1, 2012, through June 30, 2012.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty.

The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: August 20, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
27 European Union Member States [3]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.35	0.35
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
Total		0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).

[2] Defined in 19 U.S.C. 1677(6).

[3] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2012–21042 Filed 8–24–12; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Medical Mission to Brazil; Sao Paulo, Brazil, May 21–24, 2013

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce (USDOC), International Trade Administration, U.S. and Foreign Commercial Service (CS) is organizing a Medical Trade Mission to Brazil from May 21–24, 2013 in conjunction with Hospitalar 2013—the region's major healthcare trade show—in Sao Paulo, Brazil's major healthcare industry hub. In addition to providing exposure to Brazilian buyers, the trade show also attracts a high number of visitors from Mexico, Central and South America, as well as attendees from Europe, Asia and Africa.

The Medical Trade Mission to Brazil is intended to include representatives from a variety of U.S. medical/healthcare industry manufacturers (equipment/devices, laboratory equipment, emergency equipment, diagnostic, physiotherapy and orthopedic, healthcare information technology, and other allied sectors), service providers, and trade associations. Participating in an official U.S. industry delegation, rather than traveling to Brazil on their own, will enhance the participants' ability to secure meetings in Brazil. Mission participants will have tabletop exhibits at the CS booth at Hospitalar and prearranged one-on-one appointments at the tables to introduce the participants to end-users and prospective partners whose needs and capabilities are best suited to each U.S. participant's strengths. The participants also will obtain first-hand information through briefings about the regulations, policies and procedures in the healthcare industry. Trade mission participants will have the opportunity to interact extensively with Embassy/Consulate Officials and Commercial Service (CS) Brazil healthcare specialist to discuss industry developments, opportunities, and sales strategies.

Commercial Setting

Brazil is the largest medical equipment market in South America. The total market for medical equipment in Brazil should continue to expand approximately 15% through 2012. Brazil is both a major medical equipment producer and importer. This industry consists of a number of related products and services, including:

- Medical equipment and devices;
- Dental equipment and products;
- Radiological and diagnostic imaging equipment; and
- Laboratory equipment.

Brazilian medical equipment revenues in 2011 reached an estimated US$6.056 billion, which represents an increase of 20% from the previous year. The United States accounts for approximately 30% of the import market, with U.S. sales mainly going through local agents, distributors and importers who sell to hospitals and clinics. The market for electro-medical equipment is around US$200 million, which represents approximately 50% of total sales in Latin America. In 2011, imports for in vitro diagnostics reagents and devices increased approximately 20%.

MEDICAL EQUIPMENT

In US$ billion	2010	2011 (estimated)	2012 (estimated)	2013 (estimated)
Total Market Size	5.047	6.056	6.964	8.009
Total Local Production	2.013	2.415	2.898	3.477
Total Exports	0.633	0.759	0.910	1.092
Total Imports	3.667	4.400	4.976	5.624
Imports from the U.S	1.100	1.320	1.493	1.687
Exchange Rate: 1 US$	1.67	1.67	.....	.....

There are few high-quality Brazilian manufacturers of advanced medical products, so Brazil's reliance on imports should continue for some time. Local buyers view U.S. and other foreign products (mainly Canadian and European) as having comparable quality and reliability. Thus, financing terms often become the differentiating criteria in making a sale.

Best Prospects/Services

Brazil's strengthened currency has meant that private and public hospitals have greater purchasing power, and with continued expansion of Brazil's private healthcare sector, the market should grow. Approximately 80% of all products used in hospitals have no similar manufacturing in the country and must be imported. New opportunities for U.S. exporters abound, particularly for advanced medical equipment, disposables, diagnostic devices, implants and components.

Opportunities

The market for home healthcare products has been increasing in recent years. Brazilian health insurance companies are responsible for paying 99% of the costs related to home care treatment, and as such, the U.S. Commercial Service sees the market for home healthcare products growing dramatically during the coming years. Brazil's Regional Nursing Council is currently developing procedures on how to regulate this market, including standards for health professionals.

In addition to the attractive size of the Brazilian medical market, U.S. exporters should consider the opportunities offered by Mercosur, and use Brazil as a "spring board" for export into Argentina, Uruguay and Paraguay. Since compulsory product registration before sale is required for all of MERCOSUR countries, U.S. exporters should consult a local lawyer/consultant before signing a contract with any agent/distributor.

The growth in this industry makes it very attractive for U.S. companies, both large companies already doing business in the market but also and especially small- and medium-sized enterprises (SMEs), and new-to-market (NTM) companies.

Mission Goals

The goal of the Medical Trade Mission to Brazil is to (1) Familiarize the participants with the current healthcare market as well as the developments taking place in Brazil, (2) introduce participants to strategic

partners to learn about various regulatory procedures as well as policies in the healthcare sector, and (3) and introduce participants to Brazilian companies for potential partnerships.

Mission Scenario

U.S. participants will be counseled before and after the mission by U.S. Export Assistance Center trade specialists, primarily by members of the Global Healthcare Team. Participation in the mission will include the following:

- Pre-travel briefings/Webinar on subjects ranging from business practices in Brazil to security;
- Consulate briefings on the business climate, political scenario, medical/healthcare industry scenario;
- Pre-scheduled meetings with potential partners, distributors, end users, or local industry contacts;
- Showcase your company using a tabletop display at Hospitalar 2013—includes table with two chairs, unlimited Internet access;
- Complimentary promotion and listing on the official Hospitalar 2013 portal;
- Listed in Hospitalar 2013 hard copy exhibitor catalog;
- Advanced promotion to top local contacts of the U.S. Commercial Service network in Brazil, Mexico, and throughout Central and South America.

Proposed Timetable

Mission participants will be encouraged to arrive Monday, May 20, 2013 to allow time to adjust to their new surroundings before the mission program begins on Tuesday, May 21.

Tuesday, May 21	Sao Paulo. 11 a.m.–11: 45 a.m.: Consulate & Industry briefing by U.S. Department of Commerce at U.S. Commercial Service Pavilion. Noon to 9 p.m. trade show hours. One-on-one appointments begin.
Wednesday, May 22	Sao Paulo. Noon to 9 p.m. trade show hours. One-on-one appointments continue. No-host Group Dinner.
Thursday, May 23	Sao Paulo. Noon to 9 p.m. trade show hours. One-on-one appointments continue.
Friday, May 24	Sao Paulo. Noon to 9 p.m. trade show hours, One-on-one appointments end.

Participation Requirements

All parties interested in participating in the Brazil Medical Trade Mission must complete and submit an application for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and satisfy the selection criteria as outlined below. A minimum of 8 and a maximum of 12 companies will be selected to participate in the mission. U.S. companies already doing business in Brazil as well as U.S. companies seeking to enter the Brazilian market for the first time may apply.

Fees and Expenses

After a company or organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee per company will be $3,850 for small and medium-sized enterprises (SME) [1] and $5475 for large companies. This includes entry passes to the trade show, and no additional fees/registration will need to be processed to exhibit at Hospitalar 2013. Expenses for local translator, local transportation, lodging, meals, incidentals, and travel will be the responsibility of each mission participant.

Conditions for Participation

- An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, (or in the case of a trade association or trade organization, information on the products and/or services of the companies to be represented on the trade mission), primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.
- Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Suitability of a company's (or, in the case of a trade association or trade organization, represented companies') products or services to the mission's goals.
- Company's (or, in the case of a trade association or trade organization, represented companies') potential for business in Brazil, including likelihood of exports resulting from the trade mission.
- Consistency of the applicant's goals and objectives with the stated scope of the trade mission.

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register** (*http://www.gpoaccess.gov/fr*), posting on ITA's trade mission calendar—*http://export.gov/trademissions*—and other Internet web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than March 8, 2013. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of twelve (12) participants is reached. We will inform all applicants of selection decisions as soon as possible after the applications are reviewed. Applications received after the March 8 deadline will be considered only if space and scheduling constraints permit.

How To Apply

Applications can be completed on-line at the Trade Mission Web site or can be obtained by contacting Pompeya Lambrecht at the U.S. Department of Commerce (see contact details below.) Completed applications should be submitted to Pompeya Lambrecht.

Contacts

U.S. Commercial Service Healthcare Team: Ms. Pompeya Lambrecht, International Trade Specialist, U.S. Commercial Service, U.S. Department of Commerce, 2800 S. Randolph Street, Suite 800, Arlington, VA 22206, Phone: 703.756.1707, *Pompeya.Lambrecht@trade.gov*.

U.S. Commercial Service in Brazil: Mr. Jefferson Oliveira, U.S. Commercial Service Sao Paulo, Phone: 011.55.11.5186.7136, *Jefferson.Oliveira@trade.gov*.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2012–21051 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Groundfish Tagging Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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 October 26, 2012.

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 John Clary at (206) 526–4039 or email *john.c.clary@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The groundfish tagging program provides scientists with information necessary for effective conservation, management, and scientific understanding of the groundfish fishery off Alaska and the Northwest Pacific. The program area includes the Pacific Ocean off Alaska (the Gulf of Alaska, the Bering Sea and Aleutian Islands Area, and the Alexander Archipelago of Southeast Alaska), California, Oregon, and Washington. Fish movement information from recovered tags is used in population dynamics models for stock assessment. There are two general categories of tags. Simple plastic tags (spaghetti tags) are external tags approximately two inches long printed with code numbers. When a tag is returned the tag number is correlated with databases of released, tagged fish to determine the net movement and growth rate of the tagged fish. Archival tags are microchips with sensors encased in plastic cylinders that record the depth, temperature or other data, which can be downloaded electronically from the recovered tags. The groundfish tagging and tag recovery program is part of the fishery resource assessment and data collection that NMFS conducts under the Magnuson-Stevens Act authority as codified in 16 U.S.C. 1801(a)(8).

II. Method of Collection

This is a volunteer program requiring the actual tag from the fish to be returned, along with recovery information. Reporting forms with pre-addressed and postage-free envelopes are distributed to processors and catcher vessels.

III. Data

OMB Control Number: 0648–0276.

Form Number: None.

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

Affected Public: Non-profit institutions; State, local, or tribal government; business or other for-profit organizations.

Estimated Number of Respondents: 350.

Estimated Time per Response: 5 minutes for returning a regular tag, and 20 minutes for returning an internal archival tag.

Estimated Total Annual Burden Hours: 65.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

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 21, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–20948 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Surveys for U.S. Commercial Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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 October 26, 2012.

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 Eric Thunberg, (508) 495–2272 or *Eric.Thunberg@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension and revision of a currently approved generic collection.

Economic data for selected United States (U.S.) commercial fisheries will be collected for each of the following groups of operations, based on pre-approved questions: (1) Processors, including onshore plants, floating processing plants, mothership vessels, and catcher/processor vessels; (2) first receivers of fish, including dealers, wholesalers, and auctions; (3) catcher vessels; and (4) for-hire vessels. Companies associated with these groups will be surveyed for expenditure, earnings, effort, ownership, and employment data; and basic demographic data on fishing and processing crews. These economic data collection programs contribute to legally mandated analyses required under the Magnuson-Stevens Fishery Conservation and Management Act (MFCMA), the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (RFA), Executive Orders 12866 and 13563 (EO 12866 and EO 13563) as well as a variety of state statutes including Florida Statute 120.54, Hawaii Revised Statute 201M–2, New Jersey Permanent Statutes 52:14B–19 and Oregon Revised Statutes 183.335 and 183.540.

In general, questions will be asked concerning ex-vessel and wholesale prices and revenue, variable and fixed costs, expenditures, effort, ownership, dependence on the fisheries, and fishery employment. The data collection efforts will be coordinated to reduce the additional burden for those who participate in multiple fisheries. Participation in these data collections will be voluntary.

Program change: We are adding questions for first receivers to this collection.

The data will be used for the following three purposes: (1) To monitor the economic performance of these fisheries through primary processing; (2) to analyze the economic performance effects of current management measures; and (3) to analyze the economic performance effects of alternative management measures. The measures of economic performance to be supported by this data collection program include the following: (1) contribution to net national benefit; (2) contribution to income of groups of participants in the fisheries (i.e., fishermen, vessel owners, processing plant employees, and processing plant owners); (3) employment; (4) regional economic impacts (income and employment); and (5) factor utilizations rates. As required by law, the confidentiality of the data will be protected.

Data collections will focus each year on a different component of the U.S. commercial fisheries, with only limited data collected in previously surveyed components of these fisheries. The latter will be done to update the models that will be used to track economic performance and to evaluate the economic effects of alternative management actions. This cycle of data collection will facilitate economic performance data being available and updated for all the components of the U.S. commercial fisheries identified above.

II. Method of Collection

The surveys will be conducted via mail, phone and in-person interview. In general, respondents will be mailed a copy of the survey instrument in advance of a phone or in-person interview. Where feasible, survey respondents will be provided with the option to respond to a survey on-line or other electronic medium.

III. Data

OMB Control Number: 0648–0369.

Form Number: None.

Type of Review: Regular submission (extension and revision of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 7,000.

Estimated Time Per Response: 1–2 hours for a response from a catcher vessel or for-hire vessel for operating cost, annual cost, revenue, effort, employment, ownership, and limited demographic data; 20–30 minutes per response from a catcher vessel or for-hire vessel for operating cost data; 30 minutes to 1 hour and 30 minutes per response from a catcher vessel or for-hire vessel for annual expenditure and demographic data; 8 hours for a response from a West Coast or Alaska processor, including catcher/processor vessels, mothership vessels, floating processing plants, and onshore plants; 1–2 hours for a response from an East Coast or Gulf processor.

Estimated Total Annual Burden Hours: 7,000.

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 22, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–21029 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC173

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of a scientific research permit.

SUMMARY: Notice is hereby given that NMFS has issued Permit 14513 to Dr. Stephanie Carlson of University of California, Berkeley.

ADDRESSES: The approved application for the permit is available on the Applications and Permits for Protected Species (APPS), *https://apps.nmfs.noaa.gov* Web site by searching the permit number within the Search Database page. The application, issued permit and supporting documents are also available upon written request or by appointment: Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, California 95404 (ph: (707) 575–6097, fax: (707) 578–3435).

FOR FURTHER INFORMATION CONTACT: Jeffrey Jahn at 707–575–6097, or email: *Jeffrey.Jahn@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to federally endangered Central California Coast coho salmon (*Oncorhyncus kisutch*), threatened Southern Oregon/Northern California Coast coho salmon (*O. kisutch*), threatened Central California Coast steelhead (*O. mykiss*), threatened Northern California steelhead (*O. mykiss*), and threatened California Coastal Chinook Salmon (*O. tshawytscha*).

Permit 14513

A notice of the receipt of an application for a scientific research permit (14513) was published in the **Federal Register** on December 8, 2010 (75 FR 76400–76401). After publication of the notice of receipt, Dr. Carlson expanded her research program to include study sites in the Eel River watershed. Since the Eel River watershed and associated take of salmon and steelhead were not included in the previous application that already went through the public comment period, NMFS published another notice of receipt in the **Federal Register** on June 7, 2012 (77 FR 33717–33718).

Permit 14513 is for research to be conducted in the Lagunitas Creek watershed in Marin County, the Pescadero Creek watershed in San Mateo County, and the Eel River watershed in Humboldt and Mendocino counties, California. The main purpose of the research is to conduct research on, and monitor salmon populations in these watersheds. Permit 14513 authorizes capturing (backpack electrofisher, traps, seine, dip net, hook and line), observing (snorkel surveys), anesthetizing, handling (identify, measure, weigh), marking (Passive Integrated Transponder tags, fin clips), sample (scales, gastric lavage, otolith), and release of Central California Coast (CCC) coho salmon, Southern Oregon/Northern California Coast (SONCC) coho salmon, Central California Coast (CCC) steelhead, Northern California (NC)steelhead, and California Coastal (CC) Chinook Salmon, henceforth referred to as ESA-listed salmonids.

Permit 14513 authorizes non-lethal take and low levels of unintentional lethal take of ESA-listed salmonids, as well as adult carcasses of these species. Permit 14513 does not authorize any lethal take of ESA-listed salmonids except for a limited number of moribund CCC steelhead that may occur in Pescadero Creek.

Dated: August 22, 2012.

Dwayne Meadows,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–21091 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 1206013478–2342–02; 0648–XB140]

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Queen Conch as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Ninety-day petition finding, request for information, and initiation of status review.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to list the queen conch (*Strombus gigas*) as threatened or endangered and designate critical habitat under the Endangered Species Act (ESA). We find that the petition and information in our files present substantial scientific or commercial information indicating that the petitioned action may be warranted. We will conduct a status review of the species to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species (see below).

DATES: Information and comments on the subject action must be received by October 26, 2012.

ADDRESSES: You may submit information, identified by the code 0648–XB140, addressed to: Calusa Horn, Natural Resource Specialist, by any of the following methods:

- *Electronic Submissions:* Submit all electronic information via the Federal eRulemaking Portal *http://www.regulations.gov*.
- *Facsimile (fax):* 727–824–5309.
- *Mail:* NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Hand delivery:* You may hand deliver written information to our office during normal business hours at the street address given above.

Instructions: All information received is a part of the public record and may be posted to *http://www.regulations.gov* without change. All personally identifiable information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected

information. We will accept anonymous submissions. Attachments to electronic comments will be accepted in Microsoft Word, Excel, Corel WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Calusa Horn, NMFS, Southeast Region, (727) 824–5312; or Marta Nammack, NMFS, Office of Protected Resources, (301) 427–8469.

SUPPLEMENTARY INFORMATION: On February 27, 2012, we received a petition from the WildEarth Guardians to list queen conch (*Strombus gigas*) as threatened or endangered under the ESA. The petitioner also requested that we designate critical habitat. The petition states that the species is declining and threatened with extinction due to habitat degradation, specifically, water pollution and destruction of seagrass nursery habitat, overutilization resulting from commercial harvest, inadequacy of existing regulatory mechanisms, and other natural and manmade factors such as, biological vulnerability, human population growth, and synergistic effects. Copies of this petition are available from us (see **ADDRESSES**, above) or at *http://sero.nmfs.noaa.gov/pr/ListingPetitions.htm*.

ESA Statutory and Regulatory Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a "positive 90-day finding"), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we are to conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a "may be warranted" finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a "species," which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NOAA–U.S. Fish and Wildlife Service (USFWS) policy clarifies the agencies' interpretation of the phrase "distinct population segment" for the purposes of listing, delisting, and reclassifying a species under the ESA ("DPS Policy"; 61 FR 4722; February 7, 1996). A species, subspecies, or DPS is "endangered" if it is in danger of extinction throughout all or a significant portion of its range, and "threatened" if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered because of any one or a combination of the following five section 4(a)(1) factors: the present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define "substantial information" in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In evaluating whether substantial information is contained in a petition, the Secretary must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

Court decisions clarify the appropriate scope and limitations of the Services' review of petitions at the 90-day finding stage, in making a determination whether a petitioned action "may be" warranted. As a general matter, these decisions hold that a petition need not establish a "strong likelihood" or a "high probability" that a species is either threatened or endangered to support a positive 90-day finding.

We evaluate the petitioner's request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude it supports the petitioner's assertions. In other words, conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a "species" eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We

evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Queen Conch Species Description

The queen conch (*Strombus gigas*) is a large gastropod mollusk belonging to the Strombidae family. The queen conch occurs throughout the Caribbean islands and into the Gulf of Mexico, south Florida, the Bahamas, and Bermuda, and the northern coasts of Central and South America (Davis, 2005). The known distribution of the queen conch includes 36 countries and dependent territories (CITES, 2003). The queen conch is the largest of the molluscan gastropods with adults averaging 7–9 inches (shell length) in size, but can grow to a maximum size of 12 inches (Davis, 2005; NMFS, 2011). Queen conch have an external, spiral-shaped shell with a glossy pink or orange interior (Davis, 2005; NOAA, 2011). Queen conch are aged by shell length, which is measured from the tip of spire to the anterior edge of the shell. At approximately 3 years of age, the shell will begin to form a flared lip, which is used to indicate the animal's maturity (Theile, 2001; Davis, 2005). Reproductive maturity is related to the development of the flared lip (SEDAR, 2007). The conch shell and flared lip continue to grow as the animal ages (NMFS, 2011).

Queen conch are believed to live up to 30 years (McCarthy, 2007). Shell morphology is highly plastic and habitat appears to exert a strong influence on juvenile and adult morphology and growth (Martin-Mora *et al.*, 1995; McCarthy, 2007). Queen conch graze on a variety of species of algae and seagrass detritus. Their preferred habitat types are seagrass meadows, coral rubble, algal plains, and sandy substrates (McCarthy, 2007; SADAR, 2007), but they are also encountered on rocky habitats and on coral reefs (Theile, 2001). Queen conch occur at depths ranging from a few centimeters to greater than 100 meters; however, densities decrease significantly below 30 meters due to light limitations that are not conducive for the growth of their food sources (i.e., algae and seagrass) (Theile, 2001; SEDAR, 2007). Adults are typically found at depths ranging from 10 to 30 meters (McCarthy, 2007).

Queen conch reach reproductive maturity, though highly variable, between 3 and 4 years of age or after the shell has developed the flared lip (Theile, 2001; Davis, 2005; McCarthy, 2007). It is widely believed that adult queen conch migrate to shallow waters to form large spawning aggregations. However, Stoner *et al.*, (1992) and Glazer and Kidney (2004; as cited in CITES, 2008) suggest that queen conch migrate relatively little when habitats provide for a variety of their functions (e.g., forage, cover, reproduction). Queen conch spawn from March through October, with most activity occurring during the warmest water periods (i.e., July through September). Fertilization is internal and females lay an average of nine egg masses per season; each mass contains approximately 400,000 eggs (Davis, 2005). Larvae hatch after a 3 to 5 day egg incubation period. Larvae are pelagic, drifting on surface currents for 2 to 3 weeks, depending on phytoplankton concentrations, temperature, and proximity to appropriate nursery habitat. Ocean currents and water circulation can carry larvae over significant distances and likely play an important role in recruitment and repopulation of depleted areas (Theile, 2001; Davis, 2005). It is generally believed that larvae select specific habitat types, preferring to settle in clean shallow coastal waters containing seagrass meadows and sandy substrate (CFMC, 1996; Theile, 2001; Davis, 2005), although juvenile queen conch have also been observed in a variety of habitat types (i.e., algae covered hard bottom, algae flats, deep banks, coral rubbles, and seagrass meadows) (Stoner, 2003; Davis, 2005). During their first year, larvae begin to metamorphose into the queen conch form (Theile, 2001; Davis, 2005).

Analysis of the Petition

We have determined, based on the information provided in the petition and readily available in our files, that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. The petition contains a detailed narrative justification for the recommended measure, species taxonomic description, geographic distribution, preferred habitat characteristics, population status and trends, and threats contributing to the species' decline, and it is accompanied by appropriate supporting documentation. Below is a synopsis of our analysis of the information provided in the petition and readily available in our files.

The petition states that the primary threat to the queen conch is overexploitation by fisheries. The queen conch is commercially harvested in 25 countries throughout the Caribbean region (Acosta, 2006). Queen conch meat is mainly consumed as food, but is also used as bait. Queen conch shells are generally considered a by-product of the fisheries and are discarded at sea, though some are sold as jewelry or curios (NMFS, 2011a). The United States is the largest importer of queen conch from the Caribbean, importing approximately 78 percent of the queen conch meat in international trade (Davis, 2005), equaling approximately 2,000 to 2,500 tons of queen conch meat annually (Theile, 2002; CITES, 2005).

The petition asserts that queen conch annual landings have increased substantially in order to meet growing international demand. The petition references queen conch landings from several of the largest exporting countries in the Caribbean region, stating that Jamaica, Honduras, and the Dominican Republic each declare approximately 1,000 tons of queen conch meat landed annually; followed by the Bahamas and Turks and Caicos which land approximately 680 and 780 tons, respectively (Theile, 2002; as cited by the petition). For perspective, 4,500 tons of conch meat is equivalent to approximately 31 million individuals (CITES, 2005). The petition also claims that queen conch landings are "grossly underestimated" because landings data are limited and do not account for high levels of illegal and unreported harvest. Several citations caution that queen conch landings are likely greater than reported, referencing large scale foreign poaching and illegal trade (i.e., at sea transfer) by neighbouring territories and

under-reported queen conch landings (Theile, 2001; CITES, 2005; Aiken *et al.*, 2006; FAO, 2007).

The petitioner asserts that queen conch is being harvested at unsustainable levels, resulting in population declines, stock collapses, as well as recruitment and reproductive failure. In the 1980s, increased international demand and subsequent commercial exploitation resulted in several stocks being reduced to levels where the populations can no longer recover (Paris *et al.*, 2008). The queen conch trade is suspected to be unsustainable in many Caribbean countries, and illegal harvest, including fishing of the species in foreign waters and subsequent illegal international trade, is believed to be a common and widespread problem throughout the Caribbean region (Theile, 2001; Jesus-Navarrete, 2003; CITES 2003, 2005; Aiken *et al.*, 2006). The petition outlines specific population declines, stock collapses, and total or temporary closures of queen conch fisheries as a result of overharvest in Bermuda, Cuba, Colombia, Florida, Mexico, the Netherlands Antilles, the U.S. Virgin Islands, and Venezuela (CFMC, 1996; Theile, 2001; CITES, 2003). In some Caribbean countries, local queen conch consumption is more significant than the queen conch meat exports (CITES 2005; Erhardt and Valle-Esuivel, 2008). The CITES significant trade review suggested that population declines throughout the Caribbean are primarily the result of overfishing for domestic and international markets, lack of enforcement of regulations, and large scale poaching by foreigners (CITES, 2003, 2005). The review also found that intensive fishing pressure has led to continued population declines resulting in "densities so low that recruitment failure is a risk to local fisheries in parts of Belize, Colombia, the Dominican Republic, Haiti, Honduras, Panama, Puerto Rico, and the U.S. Virgin Islands" (CITES, 2003, 2005).

The petitioner also claims that the overfishing of queen conch populations has led to population densities so low that a mate finding Allee effect is preventing recruitment and prohibiting the species' ability to recover from overexploitation. The Allee effect occurs when population growth is limited by the reduced likelihood of finding a mate due to low population densities. In addition, the decrease in abundance of reproductively mature adults (spawning stock) can lead to reduced survival or production of eggs causing depensation issues. Animals, like the queen conch, that require close proximity for fertilization of eggs are particularly vulnerable to depensation problems (Stoner *et al.* 2012). Stoner and Ray-Culp (2000) documented a mate-finding Allee effect in queen conch populations in the Bahamas, observing that mating behavior and egg-laying never occurred when densities were below 56 and 48 adults per hectare. Consistent with earlier studies, Stoner *et al.* (2012) reported that no mating was observed at densities less than 47 queen conch per hectare. Ehrhardt and Valle-Esquivel (2008, citing TRAFFIC, 2003) stated that the mean densities in several important queen conch fisheries in the Caribbean region were below levels at which depensation has been shown to occur in queen conch populations.

The information presented by the petitioner and information in our files indicates that queen conch populations in many Caribbean countries are declining or have declined as a result of overexploitation. In addition, some Caribbean countries have overexploited queen conch populations to such low levels that depensation is impacting recruitment and recovery. Taken in combination, this information suggests that overexploitation may pose an extinction risk of concern to the queen conch.

The petitioner also claims that water pollution in the form of heavy metals is a significant threat to queen conch populations. The petition discussed the threat of water pollution under "the present and threatened destruction, modification, or curtailment of habitat or range" listing factor. However, the available information suggests that water pollution is having a physiological impact on queen conch reproduction, which is an effect to the animal. Therefore, we believe that this threat is more appropriately addressed under the "other natural and manmade factors" listing factor.

The petition cites several peer-reviewed publications and research studies that show queen conch in south Florida are incapable of reproduction due to pollutants in their environment. In the Florida Keys, studies have confirmed a complete cessation of queen conch spawning in nearshore areas, whereas offshore queen conch have normal reproductive development (Glazer and Quinteri, 1998; McCarthy *et al.* 2002; Delgado *et al.* 2004, 2007; Glazer *et al.* 2008; Spade *et al.* 2010). Spade *et al.* (2010) suggest that the reproductive failure of queen conch in nearshore environments in the Florida Keys is possibly a result of exposure to high levels of zinc and copper in their environments. Gastropod studies have linked heavy metal exposure, in particular exposure to zinc and copper, to reduced reproductive output which is usually measured in terms of egg laying (Glazer *et al.* 2008; Spade *et al.* 2010). In the Florida Keys, the gonads of nearshore female conch were documented by Delgado *et al.* (2004) to be in worse condition than those of males; Spade *et al.* (2010) also documented a premature regression of male testis and a reduction in testis development in nearshore male queen conch. Translocation studies conducted in the Florida Keys also found that nearshore queen conch failed to develop adequate gonad tissue, but gonads developed within 3 months once the animals were relocated to offshore environments; conversely, gonad function ceased when offshore queen conch were relocated into nearshore environments (McCarthy *et al.* 2002; Glazer *et al.* 2008; Spade *et al.* 2010). A Florida Fish and Wildlife Conservation Commission and Environmental Protection Agency report (Glazer *et al.* 2008) on the anthropogenic effects to queen conch reproduction in south Florida showed high concentrations of zinc in the digestive gland and gonad tissue of nearshore queen conch. The report stated that the digestive glands of reproductively healthy offshore queen conch had 70ng/mg of zinc, whereas the non-reproductive nearshore queen conch had 1000ng/mg of zinc in their digestive glands. In gastropods the digestive gland is adjacent to the gonad and is believed to be a site of metal accumulation and detoxification (Spade *et al.* 2010).

Delgado *et al.* (2007) suggest that exposure to chemicals (i.e., naled and permathrin) commonly used in mosquito control pesticides in south Florida may have several sub-lethal and chronic effects on critical early life stages of queen conch. The majority of queen conch embryos exposed to these chemicals during this study were deformed in a manner that would limit their ability to survive in the wild. Exposure to these chemicals likely increases the risk of predation upon queen conch larvae. Delgado *et al.* (2007) found that exposed larvae were slow growing which would require larvae to remain adrift in the water column for an extended period of time before they reached competency (i.e., recruitment size), increasing their chance of being predated upon. In addition, settlement stage larvae exposed to these chemicals received a false metamorphic cue which forced larvae to undergo metamorphosis prior to competence, decreasing their chances of survival (Delgado *et al.* 2007; Glazier *et al.* 2008).

The literature in the petition and information available in our files suggests that water pollution in south Florida is significantly impacting queen conch physiology and is affecting the population's growth and impeding the recovery of the historically overfished populations. The information provided by the petitioner and in our files is limited to the south Florida populations. We do not have information regarding the occurrence of this threat in other areas of the species range. However, it is possible that Caribbean populations may be experiencing similar physiological effects resulting from water pollution. Based on the information available to us at this time, we believe water pollution may pose a significant risk to the species if it is occurring elsewhere.

In addition to the information on overutilization and water pollution, the petitioner also provided information on the present and threatened destruction, modification, or curtailment of seagrass nursery habitat, the inadequacy of existing regulatory mechanisms, and other natural and manmade factors affecting the species existence. Because we have determined that the information provided on overutilization and other natural or manmade factors presents substantial information indicating the petitioned action may be warranted, we are not conducting a detailed analysis of this other information here.

Petition Finding

We have determined after reviewing the information contained in the petition, as well as information readily available in our files, that there is substantial information indicating that the petitioned action may be warranted, based on the threats of overutilization for commercial, recreational, scientific or education purposes and other natural or manmade factors. Because we have found that substantial information was presented on the above factors, we will commence a status review of the species. During our status review, we will fully address all five of the factors set out in section 4(a)(1) of the ESA. At the conclusion of the status review, we will determine whether the petitioned action is warranted.

Information Solicited

As required by section 4(b)(3)(B) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(2)), we are to commence a review of the status of the species and make a determination within 12 months of receiving the petition as to whether the petitioned action is warranted. We intend that any final action resulting from this review be as accurate and as effective as possible. Therefore, we open a 60-day public comment period to solicit information from the public, government agencies, the scientific community, industry, and any other interested parties on the status of the queen conch throughout its range including: (1) Historical and current distribution and abundance of this species throughout its range; (2) historical and current population trends; (3) biological information (life history, genetics, population connectivity, etc.); (4) landings and trade data; (5) management, regulatory, and enforcement information; (6) any current or planned activities that may adversely impact the species; and (7) ongoing or planned efforts to protect and restore the species and their habitats. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents. Section 4(b)(1)(A) of the ESA and NMFS' implementing regulations (50 CFR 424.11(b)) require that a listing determination be based solely on the basis of the best scientific and commercial data, without consideration of possible economic or other impacts of the determination. During the 60-day public comment period we are seeking information related only to the status of the queen conch throughout its range.

Peer Review

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure listings are based on the best scientific and commercial data available. The Office of Management and Budget issued its Final Information Quality Bulletin for Peer Review on December 16, 2004. The Bulletin went into effect June 16, 2005, and generally requires that all "influential scientific information" and "highly influential scientific information" disseminated on or after that date be peer reviewed. Because the information used to evaluate this petition may be considered "influential scientific information," we solicit the names of recognized experts in the field that could take part in the peer review process for this status review (see **ADDRESSES**). Independent peer reviewers will be selected from the academic and scientific community, tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

References Cited

A complete list of references is available upon request from the Southeast Regional Office, Protected Resource Division (see **ADDRESSES**).

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, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, Performing the Functions and Duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–21090 Filed 8–24–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 120705210–2210–01]

RIN 0648–XC101

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List Five Species of Sturgeon as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Ninety-day petition finding, request for information, and initiation of status review.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to list five species of sturgeon (*Acipenser sturio, A. naccarii, A. mikadoi, A. sinensis,* and *Huso dauricus*), or any distinct population segments of these species that the Secretary of Commerce determines may exist, as threatened or endangered under the Endangered Species Act (ESA). We find that the petition and information in our files present substantial scientific or commercial information indicating that these petitioned actions may be warranted. We will conduct a status review of these species to determine if the petitioned actions are warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding these species (see below).

DATES: Information and comments on the subject action must be received by October 26, 2012.

ADDRESSES: You may submit comments, identified by the code NOAA–NMFS–2012–0142, addressed to: Dwayne Meadows, by any of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Facsimile (fax):* 301–713–4060.
- *Mail:* NMFS, 1315 East-West Highway, Room 13632, Silver Spring, MD 20910.
- Hand delivery: You may hand deliver written comments to our office during normal business hours at the street address given above.

Instructions: All comments received are a part of the public record and may be posted to *http://www.regulations.gov* without change. All personally identifiable information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. We will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, NMFS, Office of Protected Resources, (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 2012, we received a petition from the WildEarth Guardians and Friends of Animals to list 15 species of sturgeon (*Acipenser naccarii*—Adriatic sturgeon; *A. sturio*—Baltic sturgeon/common sturgeon; *A. gueldenstaedtii*—Russian sturgeon; *A. nudiventris*—ship sturgeon/bastard sturgeon/fringebarbel sturgeon/spiny sturgeon/thorn sturgeon; *A. persicus*—Persian sturgeon; A. *stellatus*—stellate sturgeon/star sturgeon; *A. baerii*—Siberian sturgeon; *A. dabryanus*—Yangtze sturgeon/Dabry's sturgeon/river sturgeon; *A. sinensis*—Chinese sturgeon; *A. mikadoi*—Sakhalin sturgeon; *A. schrenckii*—Amur sturgeon; *Huso dauricus*—Kaluga sturgeon; *Pseudoscaphirhynchus fedtschenkoi*—Syr-darya shovelnose sturgeon/Syr darya sturgeon; *P. hermanni*—dwarf sturgeon/Little Amu-darya shovelnose/little shovelnose sturgeon/Small Amu-dar shovelnose sturgeon; *P. kaufmanni*—false shovelnose sturgeon/Amu darya shovelnose sturgeon/Amu darya sturgeon/big Amu darya shovelnose/large Amu-dar shovelnose sturgeon/shovelfish) as threatened or endangered under the Endangered Species Act (ESA). The petition states that all 15 petitioned sturgeon species are affected by similar threats: both legal and illegal exploitation for meat and/or caviar; habitat loss and degradation; dams or dam construction; water pollution; and increased competition due to habitat loss. Copies of this petition are available from us (see **ADDRESSES,** above) or at *http://www.nmfs.noaa.gov/pr/pdfs/petitions/sturgeon15_petition2012.pdf.*

We acknowledged receipt of this petition in a letter dated April 14, 2012, and informed the petitioners that we would determine, pursuant to section 4 of the ESA, whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. As a result of subsequent discussions between us and the U.S. Fish and Wildlife Service (FWS), we have determined that 10 of the 15 petitioned sturgeon species are not marine or anadromous and thus not within our jurisdiction; therefore, those 10 species are the responsibility of the FWS. Accordingly, this 90-day finding considers whether the petitioned actions may be warranted for only the five marine or anadromous sturgeon species included in the petition: *Acipenser naccarii* (Adriatic sturgeon) and *A. sturio* (Atlantic sturgeon/Baltic sturgeon/common sturgeon) in the Western Europe region, *A. sinensis* (Chinese sturgeon) in the Yangtze River region, and *A. mikadoi* (Sakhalin sturgeon) and *Huso dauricus* (Kaluga sturgeon) in the Amur River Basin/Sea of Japan/Sea of Okhotsk region.

ESA Statutory and Regulatory Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates that the petitioned action may be warranted (a "positive 90-day finding"), we are required to promptly commence a review of the status of the species concerned, during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we shall conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a "may be warranted" finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a "species," which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NOAA–FWS policy clarifies the agencies' interpretation of the phrase "distinct population segment" for the purposes of listing, delisting, and reclassifying a species under the ESA ("DPS Policy"; 61 FR 4722; February 7, 1996). A species, subspecies, or DPS is "endangered" if it is in danger of extinction throughout all or a significant portion of its range, and "threatened" if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered because of any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and FWS (50 CFR 424.14(b)) define "substantial information" in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In evaluating whether substantial information is contained in a petition, the Secretary must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives both the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and

present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

Court decisions clarify the appropriate scope and limitations of the Services' review of petitions at the 90-day finding stage, in making a determination whether a petitioned action "may be" warranted. As a general matter, these decisions hold that a petition need not establish a "strong likelihood" or a "high probability" that a species is either threatened or endangered to support a positive 90-day finding.

We evaluate the petitioner's request based upon the information in the petition including its references, as well as the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude it supports the petitioner's assertions. In other words, conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating that the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a "species" eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by other organizations or agencies, such as the International Union on the Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but the classification alone may not provide the rationale for a positive 90-day finding under the ESA.

For example, as explained by NatureServe, their assessments of a species' conservation status do "not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act" because NatureServe assessments "have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide." (*http://www.natureserve.org/prodServices/statusAssessment.jsp*). Thus, when a petition cites such classifications, we will evaluate the source information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Sturgeon Species Descriptions

All five of the petitioned species for which we have jurisdiction are migratory and spawn in freshwater habitats while spending part of their life cycle in marine or estuarine waters (i.e., they are anadromous). They are benthic oriented feeders, eating mostly invertebrates and small fishes. All five of the species are protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). *Acipenser sturio* has been protected under CITES Appendix I since 1983, and the other four species were protected under Appendix II of CITES in 1998. The IUCN Red list lists all five species as critically endangered from their most recent analysis in 2010.

A. sturio and A. naccarii in the Western Europe Region

Acipenser sturio is a large species that can grow to 5 m in length and weigh up to 400 kg. Lifespan may reach 100 years. It occurred historically in the North and Baltic seas, the English Channel, and most European coasts of the Atlantic Ocean, the Mediterranean Sea and the Black Sea. The species is tolerant of a wide range of salinities, spending most of its life in salt water (close to the coast) and migrating up to 1000 km to spawn in freshwaters. There is only one extant reproductive population that breeds in the Garonne River in France, where the last known natural spawning occurred in 1994. It is now extirpated in Belgium, Denmark, Germany, Italy, the Netherlands, Norway, Portugal, Spain, Tunisia and the United Kingdom. According to the petitioner and IUCN, its overall population is decreasing, with more than a 90 percent population decline in the past 75 years based mainly on loss of habitat, along with pollution and exploitation. No natural reproduction has been recorded since 1994, and the current wild, native population consist of about 20–750 adults.

Acipenser naccarii is an anadromous species that spawns in freshwater after an estuarine period of growth during which it remains near the shore (at the mouths of the rivers) at a depth of 10 to 40 m. It does not enter pure marine waters. Historically they were found in the southern part of Europe, mostly in the Adriatic Sea area. They grow to 150 to 200 cm in length. The IUCN analysis

estimates that this species has declined more than 80 percent in the past three generations, or 60 years, and it may be extinct in the wild. The only remaining spawning sites may be at the confluence of the Po River and its tributaries in Italy, an area of occupancy reduced to less than 10 km^2. According to the IUCN, there may be fewer than 250 wild individuals remaining.

A. sinensis in the Yangtze River Region

Acipenser sinensis is divided into separate populations based on the river of occurrence: the Pearl River Chinese sturgeon and the Yangtze River Chinese sturgeon. This species was historically recorded in southwestern Korea and in western Kyushu, Japan and in the Yellow, Yangtze, Pear, Mingjiang, and Qingtang rivers in China, but has been extirpated from all of these areas except for the two rivers noted above. It reaches over 3 m in length and weighs up to 600 kg. According to the IUCN, the Pearl River Chinese sturgeon spawns in spring and the Yangtze River Chinese sturgeon spawns in the fall and is only present below the Gezhouba Dam. Adults can be found in some fishing grounds of the East China Sea and Yellow Sea (IUCN, 2010). The IUCN assessment documented an estimated 97.5 percent decline in the spawning population over a 37-year period. Recent surveys between 2005 and 2007 show the total spawning population to be 203–257 individuals (IUCN, 2010).

A. mikadoi and Huso dauricus in the Amur River Basin/Sea of Japan/Sea of Okhotsk Region

Acipenser mikadoi is historically native to the northwest Pacific Ocean in Japan and Russia, with an uncertain presence in China, South Korea, and North Korea. The species had been considered conspecific with North American green sturgeon (*A. medirostris*) until chromosome and morphometric differences were found; we accepted the status of *A. mikadoi* as a separate valid species in our 2002 status review of green sturgeon. Maximum length is about 1.5 m and the species reaches maturity between 8 to 10 years of age. It spawns in June through July in the Tumnin River and in April and May in the rivers of Hokkaido, Japan. It is found at sea throughout the Sea of Okhotsk, in the Sea of Japan as far east as the eastern shore of Hokkaido, along the Asian coast as far south as Wonsan, North Korea, and to the Bering Strait on the coast of the Kamchatka Peninsula. According to the IUCN, the species historically ascended Russian coastal rivers (the Suchan, Adzemi, Koppi, Tumnin, Viakhtu, and Tym rivers) and the Ishikari and Teshio rivers of Japan. It also inhabited the mouths of small rivers of the Asian Far East and Korean Peninsula, as well as the Amur River, and rivers of the Sakhalin Island. Now, it spawns persistently only in the Tumnin River. The IUCN analysis documents that the species has been declining over the past century. Over the past 45 years there has been an estimated 80 percent decline in wild, mature individuals. Current population estimates range from 10–30 adults entering the Tumnin River for spawning annually.

Huso dauricus is a very large species, reaching 5.6 m in length and 1000 kg in weight. Maximum age is reported to be 80 years. This species historically inhabited the entire Amur River from its estuary to its uppermost sections and its tributaries, including the Shilka, Onon, Argun, Nerch, Sungari, Nonni, Ussuri, and Neijian rivers. It is a semi-anadromous species that inhabits all types of benthic habitats in the large rivers and lakes of the Amur River basin. It is semi-anadromous because some populations do not migrate to the sea as adults. According to the petitioners, multiple populations have been documented. Spawning peaks from the end of May to July and young enter the Sea of Okhotsk during the summer. Generation length is 20 or more years and it has spawning intervals of 4 to 5 years for females and 3 to 4 years for males (IUCN, 2010). This species has been in sharp decline in both stock and recruitment since the 19th century, with the IUCN analysis estimating a decline of 80 percent.

Analysis of the Petition

We have determined, based on the information provided in the petition and readily available in our files, that the petition presents substantial scientific or commercial information indicating that the petitioned actions may be warranted for the five species under our jurisdiction. The petition contains a detailed narrative justification for the recommended measure, species taxonomic description, geographic distribution, preferred habitat characteristics, population status and trends, threats contributing to the species' decline, and is accompanied by appropriate supporting documentation. We agree that each of the five petitioned species is a valid taxonomic species. We have no specific information in our files that indicates the petition's status information is incorrect, unreliable, or obsolete. Below is a synopsis of our analysis of the status information provided in the petition and readily available in our files for each species.

A. sturio and A. naccarii in the Western Europe Region

The IUCN first rated *A. sturio* as "critically endangered" in 1996 and reconfirmed that ranking in 2010 by documenting a greater than 90% decline in the past 75 years. The petitioners argue that *A. sturio* is highly vulnerable to exploitation because of its life history and the age it must reach before it can reproduce. The species is prized for its flesh and its caviar and was an important commercial species until the beginning of the 20th century. The petitioners and IUCN also argue that bycatch is the major current threat. The species was added to CITES Appendix II in 1975 and transferred to Appendix I in 1983. According to the petitioners, the development of river systems, particularly for hydroelectric dams, has also negatively impacted the population because adults are unable to return to their natal rivers to breed. It remains in just one location, where 27 spawning grounds (of less than 10 km^2 total area) remain potentially accessible. The extraction of gravel in the Garonne River is a potential threat to the spawning habitat there. Dam construction, pollution and river regulation may have also led to loss and degradation of spawning sites. The petition also cites the 16th Meeting of the CITES Animals Committee in December 2000, quoting a press release (Cemagref, in litt., 26 January 2000) that reported an escape of several thousand juvenile and several hundred gravid females of *A. baerii* into the Gironde River (Bordeaux region) during two storms. While the survival of these escaped fish and their effect on the wild population of *A. sturio* are not known, the introduction of new pathological germs, food competition, and hybridization with *A. sturio* needs to be considered. The IUCN assessment estimates the current adult population may be as low as 20 to 750 individuals.

The IUCN first assessed *A. naccarii* as "vulnerable" in 1996 and elevated its ranking to "critically endangered" in 2009, reporting that exploitation for food, either legal or illegal, is a major threat to the continued survival of the species, especially exploitation of pre-reproductive fish. The species is fished for its meat and the roe is not currently consumed as caviar. Dams, particularly hydropower dams on the Po River, water pollution, and competition for habitat with an introduced catfish (*Silurus glanis*) also contribute to this species' decline. According to the IUCN, "without continuous re-stocking the survival of this species is doubtful as

continued successful reproduction in the wild can no longer be confirmed". Also, *A. baerii* was introduced in captive breeding facilities and hybridized with *A. naccarii* in Italy in the 1990s. Subsequently, *A. baerii* has also been found in the wild occasionally in Italy, with fish sporadically escaping from rearing plants or angling ponds, or being released when they become too large for private aquaria. These events may also have contributed to *A. naccarii's* decline.

A. sinensis in the Yangtze River Region

The IUCN first assessed *A. sinensis* as "endangered" in 1996 and elevated its ranking to "critically endangered" in 2010, owing to declines in the species from overharvest, habitat destruction, and potentially from water pollution. Construction of the Gezhouba dam in 1981 blocked the migration routes of this species to all but one of its spawning grounds in the Yangtze River. The species has been extirpated in most of the rest of its range.

A. mikadoi and Huso dauricus in the Amur River Basin/Sea of Japan/Sea of Okhotsk Region

The IUCN first assessed *A. mikadoi* as "endangered" in 1996 and elevated its ranking to "critically endangered" in 2010, owing to overharvest, poaching, habitat degradation and pollution. Only one spawning site remains.

The IUCN first assessed *H. dauricus* as "rare" in 1986, elevated its ranking to "endangered" in 1996, and elevated it again to "critically endangered" in 2010, owing to overharvest, poaching, and recent pollution. The species is poached for caviar roe. One study documented parasite effects on fecundity (CITES, 2000). According to the IUCN assessment, at the end of the 19th century annual commercial catch was 500 tonnes. The species was added to CITES Appendix II in 1998.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, we conclude the petition presents substantial scientific information indicating the petitioned actions of listing five species of sturgeon, or DPSs of these species, under our jurisdiction as threatened or endangered may be warranted. Therefore, in accordance with section 4(b)(3)(B) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(2)), we will commence a review of the status of these species and make determinations within 12 months of receiving the petition as to whether the petitioned actions are warranted.

Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting information on whether these five sturgeon species are endangered or threatened. Specifically, we are soliciting information in the following areas throughout the range of these species: (1) Historical and current distribution and abundance; (2) historical and current population trends; (3) biological information (life history, genetics, population connectivity, DPS structure, etc.); (4) landings and trade data; (5) management, regulatory, and enforcement information; (6) any current or planned activities that may adversely impact the species; and (7) ongoing or planned efforts to protect and restore the species and their habitats. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

A complete list of references is available upon request from NMFS Protected Resources Headquarters Office (see **ADDRESSES**).

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, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–21061 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC194

Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Assessment Process Webinar for Gulf of Mexico and South Atlantic Spanish Mackerel and Cobia

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

ACTION: Notice of SEDAR 28 Gulf of Mexico and South Atlantic Spanish mackerel and cobia assessment webinar.

SUMMARY: The SEDAR 28 assessment of the Gulf of Mexico and South Atlantic Spanish mackerel and cobia fisheries will consist of a series of workshops and supplemental webinars. This notice is for a webinar associated with the Assessment portion of the SEDAR process.

DATES: The SEDAR 28 Assessment Workshop Webinar #8 will be held on September 12, 2012, 1 p.m. until 5 p.m. EDT. The established time may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to, the times established by this notice.

ADDRESSES: The webinar will be held via a GoToMeeting Webinar Conference. The webinar is open to members of the public. Those interested in participating should contact Ryan Rindone at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request meeting information at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, SEDAR Coordinator, 2203 N Lois Ave, Suite 1100, Tampa FL 33607; telephone: (813) 348–1630; email: *ryan.rindone@gulfcouncil.org*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council, in conjunction with NOAA Fisheries, has implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process involving a workshop and webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico Fishery

Management Council, NOAA Fisheries Southeast Regional Office, and the NOAA Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and representatives of non-governmental organizations (NGOs); international experts; and staff of councils, commissions, and state and federal agencies.

SEDAR 28 Assessment Workshop Webinar

Panelists will continue deliberations and discussions regarding modeling methodologies for the Gulf of Mexico and South Atlantic Spanish mackerel and cobia fisheries.

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

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **FOR FURTHER INFORMATION CONTACT**) at least ten (10) business days prior to the meeting.

Dated: August 22, 2012.

William D. Chappell,

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

[FR Doc. 2012–21089 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC190

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 Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings.

DATES: The Pacific Council and its advisory entities will meet September 13–18, 2012. The Pacific Council meeting will begin on Friday, September 14, 2012 at 10 a.m., reconvening each day through Tuesday, September 18, 2012. All meetings are open to the public, except a closed session will be held at the end of business on Friday, September 14 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Pacific Council and its advisory entities will be held at the Riverside Hotel, 2900 Chinden Boulevard, Boise, ID 83714; telephone: (208) 343–1871.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll free; or access the Pacific Council Web site, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the Pacific Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks
2. Roll Call
3. Executive Director's Report
4. Agenda

B. Enforcement Issues

Current Enforcement Issues

C. Highly Migratory Species Management

National Marine Fisheries Service Report

D. Habitat

Current Habitat Issues

E. Salmon Management

1. California Hatchery Review Report
2. 2012 Salmon Methodology Review
3. Salmon Fishery Management Plan (FMP) Amendment 17—Annual Regulatory Cycle and Minor Updates
4. FMP Amendment 18—Update of Essential Fish Habitat for Salmon
5. Lower Columbia Endangered Species Act Salmon and Steelhead Recovery Plan

F. Pacific Halibut Management

1. Pacific Halibut Management South of Humbug Mountain
2. 2013 Pacific Halibut Regulations
3. Pacific Halibut Bycatch Estimate for Use in 2013 Groundfish Fisheries

G. Administrative Matters

1. Legislative Matters
2. Research Planning
3. Approval of Council Meeting Minutes
4. Fiscal Matters
5. Membership Appointments and Council Operating Procedures
6. Future Council Meeting Agenda and Workload Planning

H. Groundfish Management

1. National Marine Fisheries Service Report
2. Trawl Rationalization Trailing Actions for Cost Recovery and Process Issues
3. Stocks Assessment Planning
4. Update on Biological Opinion for the Groundfish Fishery, Including Consideration of Seabird Protection Regulations
5. Consideration of Inseason Adjustments
6. Phase I Report for Essential Fish Habitat Review
7. Reconsideration of Initial Catch Share Allocations in the Mothership and Shoreside Pacific Whiting Fisheries

I. Open Comment Period

Comments on Non-Agenda Items

SCHEDULE OF ANCILLARY MEETINGS

Day 1—Thursday, September 13, 2012:	
Habitat Committee	8 a.m.
Salmon Advisory Subpanel.	8 a.m.
Salmon Technical Team	8 a.m.
Scientific and Statistical Committee.	8 a.m.
Legislative Committee	2 p.m.
Budget Committee	3:30 p.m.
Enforcement Consultants	6 p.m.
Day 2—Friday, September 14, 2012:	
California State Delegation.	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation.	7 a.m.
Groundfish Management Team.	8 a.m.
Salmon Advisory Subpanel.	8 a.m.
Salmon Technical Team	8 a.m.
Scientific and Statistical Committee.	8 a.m.
Groundfish Advisory Subpanel.	3 a.m.
Enforcement Consultants	As Needed.
Chair's Reception	6 p.m.
Day 3—Saturday, September 15, 2012:	

SCHEDULE OF ANCILLARY MEETINGS—Continued

California State Delegation.	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation.	7 a.m.
Essential Fish Habitat Review Committee.	8 a.m.
Groundfish Advisory Subpanel.	8 a.m.
Groundfish Management Team.	8 a.m.
Scientific and Statistical Committee Economics and Groundfish Subcommittees.	8 a.m.
Enforcement Consultants	As Needed.
Day 4—Sunday, September 16, 2012:	
California State Delegation.	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation.	7 a.m.
Essential Fish Habitat Review Committee.	8 a.m.
Groundfish Advisory Subpanel.	8 a.m.
Groundfish Management Team.	8 a.m.
Enforcement Consultants	As Needed.
Day 5—Monday, September 17, 2012:	
California State Delegation.	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation.	7 a.m.
Groundfish Advisory Subpanel.	8 a.m.
Groundfish Management Team.	8 a.m.
Enforcement Consultants	As Needed.
Day 6—Tuesday, September 18, 2012:	
California State Delegation.	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation.	7 a.m.
Enforcement Consultants	As Needed.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council 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 Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: August 22, 2012.

William D. Chappell,

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

[FR Doc. 2012–21073 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC139

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Bird Mitigation Research in the Farallon National Wildlife Refuge

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the U.S. Fish and Wildlife Service (USFWS) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to a bird mitigation research trial in the Farallon National Wildlife Refuge. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to the USFWS to take, by Level B harassment only, five species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than September 26, 2012.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *ITP.Magliocca@noaa.gov*. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed

authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]: or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

NMFS received an application on April 17, 2012, from the USFWS for the taking, by harassment, of marine mammals incidental to a bird mitigation research trial in the Farallon National Wildlife Refuge. Upon receipt of additional information and a revised application, NMFS determined the application adequate and complete on July 27, 2012. The USFWS plans to conduct a research trial to assess potential bird hazing methods that could be used to minimize the risk of rodent bait ingestion by non-target species, if such an alternative action is chosen, during a proposed house mouse eradication. NMFS is proposing to issue an IHA to the USFWS because hazing methods used during the research trial may result in Level B harassment of the Northern elephant seal (*Mirounga angustirostris*), harbor seal (*Phoca vitulina richardii*), Steller sea lion (*Eumetopias jubatus*), California sea lion (*Zalophus californianus*), and Northern fur seal (*Callorhinus ursinus*).

Description of the Specified Activity

The purpose of the proposed project is to assess potential bird hazing methods that could be used to minimize the risk of rodent bait ingestion by non-target species during a house mouse eradication for the South Farallon Islands of the Farallon National Wildlife Refuge. House mice were introduced to the South Farallon Islands during the 19th century and have resulted in considerable ecosystem degradation. House mice seem to be indirectly impacting the breeding success of burrow-nesting seabirds, such as the ashy storm-petrel, and have also been identified as vectors of diseases that result in mass mortalities of marine mammals. Removal of the invasive house mice would protect seabirds, assist in the recovery of native plants and endemic species, and prevent the spread of disease to marine mammals. Although the proposed project would take place when most seabirds are absent, some bird species may be at risk of ingesting the toxic bait. Therefore, the USFWS is proposing a number of mitigation efforts that include a bird hazing program.

Hazing methods may incidentally result in the harassment of pinnipeds that haul out on the island. The following gull hazing techniques are likely to be used during the proposed research trial: Lasers, spotlights, pyrotechnics, biosonics, predator calls, air cannons, Mylar tape, small helicopter, human presence, kites, radio-controlled aircraft, and trained dogs. While all of these techniques may not be available, funded, or used in the trial, they are all being considered to reduce non-target bird mortality. Up to five biologists would be present on the islands to implement the research trial and monitor any pinniped disturbance. Since the trial is intended to allow researchers to test an array of gull hazing techniques, the USFWS cannot specify the exact protocol that would be implemented. However, part of the USFWS' goal during this trial is to determine which hazing methods are most effective at (1) deterring birds from roosting on the island and (2) minimizing the impacts to pinnipeds. Therefore, researchers would carefully monitor pinnipeds haul-outs during hazing and adjust the research trial to reduce disturbance. The possible gull hazing techniques are described in detail below.

Lasers

Two different handheld lasers could be used during the research trial: Red or green Avian Dissuader(R) (50mW) and handheld green laser pointer (5mW). These lasers would likely be used during pre-dawn hours to haze gulls already settled on the island. Use of the laser involves shining the beam briefly in a sweeping motion at the gull roost, which instigates a flight response in most birds. The lasers would not be directed at pinnipeds' eyes and pinnipeds are not known to react to this type of equipment. Once gulls are no longer spending the night on the island, the lasers would be used to haze gulls attempting to land on the island just prior to sunrise. Lasers would also be used in the evenings to enhance the use of pyrotechnics and reach areas that are not readily accessible or could not be hazed with pyrotechnics due to pinniped presence. Two short nighttime laser sweeps of 30–60 minutes could be attempted on each island. The lasers are expected to have a very low impact on pinnipeds because they would not be directed at haul-outs. However, researchers may need to approach a haul-out in order to access certain locations. The presence of researchers could result in temporary behavioral harassment.

Spotlight

One or 10-million candlepower spotlights could be used during pre-dawn hours to haze gulls already settled on the island. Once gulls no longer spend the night on the island and presence is restricted to marine ledges, the spotlight may also be tested to haze gulls intermittently settling on ledges. Two short nighttime sweeps by gull roosting areas may be attempted in order to haze any gulls that might have settled back on the island during the course of the night. Like the lasers, the spotlight is expected to have a very low impact on pinnipeds because it will not typically be directed at haul-outs. However, if birds roost near a haul-out, the spotlight may need to be used around the vicinity of pinnipeds and the visual stimulus could result in temporary behavioral harassment. The spotlight beam, while bright, is not so focused that it would cause retinal injury.

Biosonics

Up to three Bird-Guard broadcasting units (bird distress calls) could be used to deter gulls from settling on the island, as well as encourage them to flee if they are already present. Speakers may be placed in accessible locations. Additionally, up to three Bird Gard® SUPER PRO systems could be used to cover problem gull areas on each island. A number of electronic chips with both gull distress and predator calls could be used. The bird calls are naturally occurring sounds and are not expected to cause harassment of pinnipeds. The placement of the speakers is also not expected to cause harassment of pinnipeds because haul-out sites would be avoided. Temporary harassment of pinnipeds would only occur if the only place to locate a speaker system is near a haul-out site. The sound source levels would depend on how many speakers are used, how loud the amplifier is set to, the types of calls used, etc. Sound levels may be measured on site at the beginning of the research trial. The presence of researchers is more likely to disturb pinnipeds than the sound levels being emitted from the speakers.

Pyrotechnics

Pyrotechnics could be used to deter gulls during daylight hours. They would

be shot from a launch, such as a hand-held pistol, and could include bird bombs, CAPA charges, screamers, and screamer-bangers. Sounds are rated at 100–130 decibels (dB), depending on the specific product. The bird bombs are expected to explode with a 100-dB report down range from the launch location. CAPA charges would travel about 305 m before a 150-dB report. Screamers are expected to issue a 100-dB siren-like sound in mid-air. Screamer-bangers are expected to explode with a 120-dB report. Use of these products adjacent to pinniped haul-outs could cause behavioral harassment. Placement of these units would be so as to avoid exceeding the hearing threshold for pinnipeds. The USFWS would first use pyrotechnics as far away as possible from haul-out sites and gradually get closer if necessary, while monitoring behavioral reactions of pinnipeds. Pyrotechnics would not be used directly over a major haul-out site.

Zon Gun

A zon gun air cannon may be used to deter birds that repeatedly attempt to settle on the island. This technique involves a propane canister that charges a cylinder to produce a loud sound periodically. If pyrotechnics prove to be effective and do not appear to affect marine mammals, this technique may also be used. Detonation volume is adjustable between 100 and 125 dB. Placement of this unit would be as to avoid exceeding the hearing threshold of pinnipeds. The USFWS would use the lowest setting if haul-outs are close, but may experiment with increasing the volume at farther distances. The louder the zon gun volume, the larger the area that the USFWS would be able to cover for bird hazing. Behavioral response of pinnipeds would be monitored and the zon gun volume would be adjusted at the first sign of large scale disturbance.

Helicopter

A helicopter may be used during the research trial to haze gulls in remote portions of the islands and for operational purposes. More specifically, a helicopter may be used for the following: Monitoring the islands to determine the location and numbers of gulls and pinnipeds in remote areas that cannot be seen from Southeast Farallon Island observation points; moving and deploying personnel and equipment to and from areas inaccessible by foot; and conducting radio-telemetry flights to examine movement patterns of gulls and the efficacy of hazing. To avoid or minimize pinniped disturbance, helicopter flights in areas near haul-outs would use a slow sequential approach of decreasing altitude in order to habituate the marine mammals to the sound. This approach has been used successfully during rodent removal operations on Anacapa Island in 2001–2002 and on Rat Island in 2009.

Human Movement

Up to five researchers may access areas on West End Island in order to investigate possible gull roosting areas, haze gulls, and monitor pinniped responses to hazing activities. Researchers would approach haul-outs slowly and cautiously in order to avoid unnecessary disturbance to pinnipeds.

Kites and Radio-Controlled Aircraft

The use of 5–10 predator kites (such as Eagle or Helikites) or radio-controlled aircraft may be used to haze gulls. Most kites would be used to haze gulls at a short distance. This technique would be used sparingly around harbor seals, as they may be more easily spooked than other pinniped species. If a kite or radio-controlled aircraft falls into a haul-out area, then it would either be: (1) Left in place if it could not be retrieved safely or without causing major pinniped disturbance (stampede of large number of animals); or (2) retrieved using a slow methodical approach to avoid major disturbances to pinnipeds. Retrieval may also occur at a later time when pinnipeds are either absent or in fewer numbers.

Mylar Tape

Bamboo poles measuring about two meters in length with one-meter lengths of Mylar tied to them could be placed in areas commonly used by gulls in order to deter them from settling. While not expected, the visual stimulus of the Mylar tape may result in temporary behavioral harassment of pinnipeds or the placement of the poles by researchers could cause temporary disturbance to pinnipeds in the area.

Trained Dogs

Well-trained herding working dogs (e.g., border collies) may be used to haze birds in certain areas. These dogs are trained to not harass pinnipeds and would have the necessary immunizations and certificates to ensure that no diseases are transmittable. Dogs would be kept at least 30 meters away from pinnipeds. However, the dogs' presence and barking may result in temporary behavioral harassment of pinnipeds.

Dates and Duration of Proposed Activity

The proposed project would take place over a 2–4 week period between November 1, 2012 and January 31, 2013. The exact timing would be dependent on seasonal variations in weather, effectiveness, gull abundance and distribution, access to the island, equipment funding, staff, and required permits. During the 2–4 week period, gull roosts would be visited at least twice a day by researchers for hazing or monitoring. Most visits would last about 15 minutes, although human presence may last for 2–5 hours per day if necessary. Most hazing would take place a few hours before and after sunrise and sunset. Sporadic gull hazing may also occur as needed throughout the day and night.

Region of Proposed Activity

The proposed project would take place in the Farallon National Wildlife Refuge, a group of islands about 30 miles offshore of San Francisco, California. The refuge was established in 1909 specifically to protect sea birds and pinnipeds and it currently sustains the largest sea bird breeding colony south of Alaska, including 30 percent of California's nesting sea birds. Five pinniped species also breed or haul out on the Farallon Islands. The proposed project would be conducted in the South Farallon Islands, which are composed of Southeast Farallon Island, West End Island, Aulon Islets, and Saddle Rock. Most of the gull hazing is expected to occur within Southeast Farallon Island; however, hazing may be implemented around other areas of the island if gulls attempt to roost. The majority of the island's perimeter is considered a potential haul-out for pinnipeds. Species-specific haul-out and pupping sites are provided in the Description of Marine Mammals section of this notice.

Sound Propagation

For background, sound is a mechanical disturbance consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound's pitch and is measured in hertz (Hz) or kilohertz (kHz), while sound level describes the sound's loudness and is measured in decibels (dB). Sound level increases or decreases exponentially with each dB of change. For example, 10 dB yields a sound level 10 times more intense than 1 dB, while a 20 dB level equates to 100 times more intense, and a 30 dB level is 1,000 times more intense. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are "re: 20 μPa" and "re: 1

μPa," respectively. Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1975). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units rather than by peak pressures.

The use of biosonics, pyrotechnics, and zon guns may result in elevated sound levels that exceed NMFS' threshold for in-air harassment. Current NMFS practice regarding in-air exposure of pinnipeds to sound generated from human activity is that the onset of Level B harassment for harbor seals and all other pinnipeds is 90 dB and 100 dB re: 20μPa, respectively. The USFWS intends to use bird hazing methods that cause the least amount of marine mammal harassment, while still preventing birds from settling on the island. Biosonics, pyrotechnics, and zon guns would be initially used at distances to avoid the onset of Level B harassment. Only if bird hazing methods are still unsuccessful from distant locations would these techniques be used closer to pinniped haul-outs.

Description of Marine Mammals in the Area of the Specified Activity

The following marine mammal species may be present in the proposed project area during the research trial: Northern elephant seals, harbor seals, Steller sea lions, California sea lions, and Northern fur seals. Below is a summary of the status, distribution, and seasonality of each species that may be affected by the research trial.

Northern Elephant Seal

Northern elephant seals are the largest "true" seal in the Northern Hemisphere, reaching lengths of over 4 meters. They are found in the eastern and central North Pacific Ocean, ranging from Alaska to Mexico. They spend most of their time in the ocean, diving to depths of 330–800 meters and prefer sandy beaches when they come ashore for breeding and pupping. The Northern elephant seal breeding population is distributed from central Baja California, Mexico to the Point Reyes Peninsula in northern California. Along this coastline there are 13 major breeding colonies. Elephant seals congregate in central California to breed from late December to March. Females typically give birth to a single pup and attend the pup for up to 6 weeks. Once the pups are weaned, mating occurs by attending males. After breeding, seals migrate to the Gulf of Alaska or deeper waters in the eastern Pacific. Adult females and juveniles return to terrestrial colonies to molt in April and May, and males return in June and July to molt, remaining onshore for around 3 weeks. On South Farallon Island, northern elephant seal haul outs are located in areas known as Sea Lion Cove, North Landing, and Garbage Gulch—all within or adjacent to southeast Farallon area. Pupping takes place in areas known as Shell Beach, Indian Head, and Mirounga Beach, on the western and southern parts of the island.

The Northern elephant seal was exploited for its oil during the 18th and 19th centuries and by 1900 the population was reduced to 20–30 individuals on Guadalupe Island (Hoelzel *et al.*, 1993; Hoelzel, 1999). As a result of this bottleneck, the genetic diversity found in this species is extremely low (Hoelzel, 1999). The recent formation of most rookeries indicates that there is no genetic differentiation among populations. Although movement and genetic exchange occurs among colonies, most seals return to their natal site to breed (Huber *et al.*, 1991).

A complete population count of elephant seals is not possible because all age classes are not ashore at the same time. The most recent estimate of the California breeding stock was about 124,000 individuals. Based on trends in pup counts, northern elephant seal colonies were continuing to grow in California through 2005, but appear to be stable or slowly decreasing in Mexico. Northern elephant seals are not listed under the Endangered Species Act (ESA) nor depleted under the MMPA.

Pacific Harbor Seal

Harbor seals are one of the most widely distributed northern hemisphere pinnipeds and are found in coastal, estuarine, and sometimes fresh water of both the Atlantic and Pacific Oceans. On the west coast, harbor seals range from Baja California to the Bering Sea. They haul out on rocks, reefs, beaches, and drifting glacial ice for rest, thermal regulation, pupping, and social interaction. NMFS recognizes seven U.S. stocks for management purposes: Bering Sea, California, Gulf of Alaska, Oregon-Washington Coastal, southeast Alaska, Washington Inland, and Western North Atlantic. Any harbor seals in around the Farallon Islands would be part of the California stock. In California, approximately 400–600 harbor seal haul-out sites are widely distributed along the mainland and on offshore islands, including intertidal sandbars, rocky shores, and beaches (Hanan 1996; Lowry *et al.*, 2005). On South Farallon Island, harbor seal haul-outs and sites of limited pupping are found near the center and southeast portions.

A complete count of all harbor seals in California is impossible because some are always away from the haul-out sites. The most recent counts estimate the California population to number 30,196 individuals. Counts of harbor seals in California increased from 1981 to 2004 with the highest statewide count occurring in 2004. In central California, harbor seals breed annually from March through May and molt in June and July. Females give birth to a single pup and attend the pup for around 30 days, at which time they wean pups. Mating occurs in the water around the time of weaning. Harbor seals are not listed under the ESA nor depleted under the MMPA.

California Sea Lion

California sea lions range from southern Mexico up to British Columbia, residing in shallow coastal and estuarine waters. They prefer sandy beaches for hauling out, but are often seen on marina docks, jetties, and buoys in California. California sea lions breed almost entirely on islands in southern California, Western Baja California, and the Gulf of California. In recent years, they have begun to breed annually in small numbers at Año Nuevo Island and South Farallon Islands, California. The breeding season lasts from May to August and mating takes place shortly after birth. On the Farallon Islands, California sea lions haul out in many intertidal areas year round, fluctuating from several hundred to several thousand animals. The small number of breeding animals is concentrated in areas where researchers do not visit. The entire population of California sea lions cannot be counted because all age and sex classes are not ashore at the same time. However, based on pup counts, the current population estimate is 296,750. After removing data from El Nino years (when pup production is decreased), pup counts between 1975 and 2008 suggest an annual increase of 5.4 percent. California sea lions are not listed under the ESA nor depleted under the MMPA.

Steller Sea Lion

Steller sea lions reside along the North Pacific Rim from northern Japan through the Aleutian Islands to California. They prefer the colder temperate to sub-arctic waters of the North Pacific Ocean. Steller sea lions haul out on beaches, ledges, and rocky reefs to rest and breed. The U.S. population is divided into the western and eastern distinct population segment, with the eastern distinct population segment including any individuals in California. The eastern stock of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California.

Combining the pup count data from 2005–2009 (11,120) and non-pup count data from 2008 (31,246) results in a minimum abundance estimate of 42,366 Steller sea lions in the western U.S. stock in 2005–2009 (M. DeAngelis, NMFS, pers. comm.). Using the most recent 2006–2009 pup counts available by region from aerial surveys across the range of the eastern stock (total N=13,889), the total population of the eastern stock of Steller sea lions is estimated to be within the range of 58,334 to 72,223 (Carretta *et al.* 2011).

Steller sea lion numbers in California, especially in southern and central California, have declined from historic numbers. Counts in California between 1927 and 1947 ranged between 4,000 and 6,000 non-pups with no apparent trend, but have subsequently declined by over 50 percent, and were between 1,500 and 2,000 non-pups during the period 1980 to 2004. At Año Nuevo Island, a steady decline in ground counts started around 1970, and there was an 85 percent reduction in the breeding population by 1987 (LeBoeuf *et al.*, 1991). Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s.

On Southeast Farallon Island, California, the abundance of females declined an average of 3.6 percent per year from 1974 to 1997 (Sydeman and Allen, 1999). Steller sea lions give birth from May through July and mating occurs a couple of weeks after birth. Non-reproductive animals congregate at a few haul-out sites. Pups are weaned during the winter and spring of the following year. On the Farallon Islands, Steller sea lion breeding colonies are strictly protected to reduce or eliminate risk of human disturbance; access to these areas is rarely permitted.

In 1990, the Steller sea lion was listed as a threatened species under the ESA. On April 18, 2012 (77 FR 23209), NMFS published a proposed rule to delist the eastern distinct population segment. A public comment period was open through June 18, 2012. No final determination has been made. Under the MMPA, the Steller sea lion is depleted throughout its range.

Northern Fur Seal

Northern fur seals range across the North Pacific Ocean and the Bering Sea, as far south as the Channel Islands in California. They spend most of their time in the open ocean, but rely on rock beaches for reproduction. Concentrations of fur seals may in the open ocean near major oceanographic features, such as seamounts, canyons, or along the continental shelf break, due to prey availability. Three breeding locations are found in the U.S. and three in Russia. The peak pupping season is usually in early July and pups are weaned by October or November. At the end of the breeding season, northern fur seals travel south and remain pelagic for the winter migration period.

The majority of individuals breed on the Pribilof Islands off the coast of mainland Alaska (Testa, 2007); however, there have been declines in the number of pups produced each year by as much as 50 percent from previous seasons (Towell *et al.* 2006). After extensive hunting in the late 1800s on the Farallon Islands (Starks, 1922; Townsend, 1931; Scheffer and Kraus, 1964), the first pup in over 100 years was born there in 1996. By 2006, 80 pups were born and the Farallon Islands are again an established rookery (Pyle *et al.*, 2001). Rookeries have also been reestablished at Bogoslof Island in the eastern Aleutians, Alaska and at San Miguel Island, California (York *et al.*, 2005).

There are two stocks of northern fur seals recognized in U.S. waters: the eastern Pacific stock and the San Miguel Island stock. Any animals found on the Farallon Islands would be part of the San Miguel Island stock. The most recent population estimate for this stock is 9,968 animals. The population of northern fur seals on San Miguel Island has increased steadily since its discovery in 1968, except for severe declines in 1983 and 1998 associated with El Niño events. Recovery from the 1998 decline has been slow. Although the Farallones were a major northern fur seal breeding area before the arrival of hunters in the early 19th century, the species was essentially extirpated from the region by the second half of that century (Wilson and Ruff, 1999). Not until 1996 did northern fur seals begin breeding again on the Farallones (Pyle *et al.*, 2001), and each year since then they have bred in generally small numbers on West End Island during the summer. These numbers have increased substantially in recent years. The San Miguel Island stock of northern fur seals is not listed under the ESA nor depleted under the MMPA.

Further information on the biology and local distribution of these species and others in the region can be found in the USFWS application, which is available online (see **ADDRESSES**), and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/pr/species.*

Potential Effects of the Specified Activity on Marine Mammals

Variable numbers of northern elephant seals, harbor seals, Steller sea lions, California sea lions, and northern fur seals typically haul out around the perimeter of South Farallon Island. Pinnipeds likely to be affected by the bird mitigation trial are those that are hauled out on land at or near the location of gull hazing. Incidental harassment may result if hauled out animals are disturbed by elevated sound levels or the presence of lasers, spotlights, humans, helicopters, or dogs. Although pinnipeds would not be deliberately approached by researchers, approach may be unavoidable if pinnipeds are hauled out in the immediate vicinity of roosting birds. Disturbance may result in behavioral reactions ranging from an animal simply becoming alert (e.g., turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. NMFS does not necessarily consider the lesser reactions to constitute Level B behavioral harassment, but does assume that pinnipeds that move greater than one meter or change the speed or direction of their movement in response to the gull hazing methods are behaviorally harassed.

Typically, even those reactions constituting Level B harassment would result at most in temporary, short-term disturbance. Due to the limited duration of the research trial (maximum 4 weeks of periodic daily hazing methods), disturbance of pinnipeds would only last for short periods of time and would not occur continuously over the 4-week period. Pinnipeds are unlikely to incur significant impacts to their survival because potential harassment would be sporadic and of low intensity. Although there is a risk of injury or mortality if pinniped pups are crushed during a stampede, the USFWS is not proposing to implement hazing methods during the pupping season. The USFWS

expects most pups to have left the island before November.

In summary, NMFS believes it highly unlikely that the proposed activities would result in the injury, serious injury, or mortality of pinnipeds. Any harassment resulting from the bird mitigation research trial is expected to be in the form of Level B behavioral harassment.

Anticipated Effects on Habitat

The USFWS' proposed activity is not expected to result in the physical alteration of marine mammal habitat. Any impacts resulting from the proposed activity (e.g., short periods of ensonification) would be temporary and no major breeding habitat would be affected. There are no expected impacts to pinniped prey species. Critical habitat has been defined for Steller sea lions as a 20 nautical mile buffer around all major haul-outs and rookeries, as well as associated terrestrial, air, and aquatic zones, which includes Southeast Farallon Island. Overall, the proposed activity is not expected to cause significant impacts on habitats used by the marine mammal species in the proposed project area or on the food sources that they utilize.

Proposed Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

Temporal Restriction

The USFWS is proposing to conduct the bird mitigation research trial at a time when there are fewer birds on the island and outside of pinniped pupping season. The proposed schedule for this research would greatly reduce the possibility of injury, serious injury, or mortality to pinnipeds resulting from pups being crushed during a stampede. Pregnant northern elephant seals begin to arrive on the island in late December and early January. Remaining pups from the previous breeding season typically leave the island by November. While hazing operations are not expected to overlap with the presence of northern elephant seal pups, the USFWS will actively avoid pregnant females and pups during the research trial by having a biologist identify and map where these individuals are located.

NMFS has carefully evaluated the applicant's proposed mitigation measure and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation, including consideration of personnel safety and practicality of implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must, where applicable, set forth "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

The USFWS would designate at least one NMFS' approved protected species observer to monitor pinnipeds and collect information before, during, and after hazing operations. This observer would be located at the peak of the island's center, which provides visibility of about 70 percent of the island. If hazing operations take place in areas not visible from the island's peak, additional observers would be used to monitor and record information from other locations. Before hazing operations begin, observers would record the number and species of animals in the area. During hazing operations, observers would record the species that react to hazing operations, any change in behavior that occurs, the number of animals that flush (or leave their haul-out), and the number of flushing events. After the hazing operations, observers would record the number and species of animals remaining in the area. Observers would be in communication with the hazing trial implementation staff in order to relay information on pinniped behavioral responses. Observers would be able to halt hazing activities if they result in unexpected pinniped reactions (e.g., stampeding).

If funding and personnel are available, and based on NMFS recommendation, the USFWS would monitor sound levels of biosonics, pyrotechnics, and zon guns to evaluate the potential exposure levels of pinnipeds to these techniques. If practicable, the USFWS would measure received sound levels at varying distances from the source to determine the distance at which NMFS' in-air thresholds are reached. Results from these measurements would potentially allow the USFWS to determine how far away they need to conduct certain hazing methods.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury (Level A harassment), serious injury, or mortality, the USFWS would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Southwest Regional Stranding Coordinator at 562–980–3230 (*Sarah.Wilkin@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with the USFWS to determine what is necessary to minimize the likelihood of further

prohibited take and ensure MMPA compliance. The USFWS would not resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the USFWS discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), the USFWS would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Southwest Regional Stranding Coordinator at 562–980–3230 (*Sarah.Wilkin@noaa.gov*). The report would include the same information identified in the paragraph above. Activities could continue while NMFS reviews the circumstances of the incident. NMFS would work with the USFWS to determine whether modifications in the activities are appropriate.

In the event that the USFWS discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the USFWS would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Southwest Regional Stranding Coordinator at 562–980–3230 (*Sarah.Wilkin@noaa.gov*), within 24 hours of the discovery. The USFWS would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Current NMFS practice regarding in-air exposure of pinnipeds to sound generated from human activity is that the onset of Level B harassment for harbor seals and all other pinnipeds is 90 dB and 100 dB re: 20μPa, respectively. These threshold levels are based on monitoring of marine mammal reactions to rocket launches at Vandenberg Air Force Base. In those studies, not all harbor seals left a haul-out during a launch unless the sound exposure level was 100 dB or above and only short-term effects were detected.

The USFWS estimated take by using the maximum pinniped counts from weekly censuses in November 2006–2011. These numbers represent the highest count ever recorded for each species during the month of November since 2006. November typically has the highest pinniped counts compared to December and January (the period when the proposed activity would take place). These numbers provide the best available information on haul-outs in the proposed action area. The USFWS' take estimates for the length of the trial are shown in Table 1.

TABLE 1—PROPOSED TAKE OF PINNIPEDS FOR THE PROPOSED ACTIVITY

Species	Total
Northern elephant seal	328
Harbor seal	81
Steller sea lion	56
California sea lion	3,538
Northern fur seal	109

NMFS believes these take estimates are conservative because the USFWS used maximum counts of hauled out pinnipeds during the months of the proposed activity and these numbers do not take mitigation measures into consideration. Researchers would make every effort to minimize the take of pinnipeds (e.g., by using hazing methods at the farthest possible distance from haul-outs); moreover, many pinnipeds do not haul out near typical gull roosts. Frequency of harassment would depend upon the location of gulls and the success of hazing operations. Pinnipeds may be disturbed as much as twice per day for the duration of the 2–4 week trial. Table 1 shows the maximum number of animals that may be harassed during the proposed activity; however, each individual may be exposed to activities that result in harassment as much as twice per day for 2–4 weeks. The USFWS' proposed mitigation measures would likely result in fewer takes.

Negligible Impact and Small Numbers Analysis and Preliminary Determination

NMFS has defined "negligible impact" in 50 CFR 216.103 as "* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." In making a negligible impact determination, NMFS considers a number of factors which include, but are not limited to, number of anticipated injuries or mortalities (none of which would be authorized here), number, nature, intensity, and duration of Level B harassment, and the context in which takes occur.

As described above, marine mammals would not be exposed to activities or sound levels which would result in injury (PTS), serious injury, or mortality. Rather, NMFS expects that some marine mammals may be exposed to elevated sound levels or visual stimuli that would result in Level B behavioral harassment. Marine mammals may avoid the area or temporarily change their behavior (e.g., move towards the water) in response to research presence or elevated sound levels. No impacts to marine mammal reproduction are expected because the proposed activity would not take place during pinniped pupping season.

Proposed mitigation and monitoring measures are expected to lessen the potential impacts to marine mammals (e.g., avoiding pinniped haul-outs). NMFS expects any impacts to pinnipeds to be temporary, Level B behavioral harassment. Marine mammal injury or mortality is unlikely because of the expected sound levels, avoidance of pinniped haul outs, and avoidance of pupping season. The amount of take NMFS proposes to authorize is considered small relative to the estimated stock sizes. Less than one percent of the stock would be harassed for Northern elephant seals, harbor seals, and Steller sea lions; and less than two percent of the stock would be harassed for California sea lions and Northern fur seals. There is no anticipated effect on annual rates of recruitment or survival of affected marine mammals.

Based on the analysis of the likely effects of the proposed activity on marine mammals and their habitat, and considering the proposed mitigation and monitoring measures, NMFS preliminarily determines that the USFWS' proposed research mitigation

trial would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking would have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

The only marine mammal species listed as endangered under the ESA with confirmed or possible occurrence in the study area is the eastern DPS of Steller sea lion. On April 18, 2012 (77 FR 23209), NMFS published a proposed rule to delist the eastern DPS. A public comment period was open through June 18, 2012. No final determination has been made. Under section 7 of the ESA, the USFWS has begun consultation with NMFS on the proposed bird mitigation research trial. NMFS also initiated consultation internally on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

NMFS is currently conducting an analysis, pursuant to NEPA, to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to authorize the take of marine mammals incidental to the bird mitigation research trial, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 21, 2012.

Frederick C. Sutter, III,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–21075 Filed 8–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–42]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

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 12–42 with attached transmittal and policy justification.

Dated: August 22, 2012.

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 15 2012

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. 12-42, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $60 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

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. 12-42

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:* Iraq.

(ii) *Total Estimated Value:*

Major Defense Equipment *	$0 million.
Other	60 million.
Total	60 million.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Commercially available Federal Aviation Administration Air Traffic Control and Landing Systems/ Navigational Aids. The system will include an ASR–11 Radar, Autotrac II simulator, Instrument Landing System, and Airfield Lighting System, spare and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, site survey, installation, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (QAZ).

(v) *Prior Related Cases, if any:* None.

(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:* 15 August 2012.

POLICY JUSTIFICATION

Iraq—Air Traffic Control and Landing System

The Government of Iraq has requested a proposed sale of commercially available Federal Aviation Administration Air Traffic Control and Landing System/Navigational Aids. The system will include an ASR–11 Radar, Autotrac II simulator, Instrument Landing System, and Airfield Lighting System, spare and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, site survey, installation, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics and program support. The estimated cost is $60 million.

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.

The proposed sale will contribute to Iraq's continued efforts toward rebuilding their airfield systems at Tikrit Air Base for near-term basing of multiple aircraft. The renovations and upgrades to the airfield and its systems will allow for greater ease in launch and recovery of aircraft and will benefit the overall sustainment of aircraft and affiliated systems over time. This equipment aids Iraq's continuing reconstruction effort that directly improves Iraq's ability to control its own airspace.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor is unknown and will be selected through competitive process. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Iraq.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2012–20976 Filed 8–24–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0097; Docket 2012–0076; Sequence 22]

Federal Acquisition Regulation; Information Collection; Taxpayer Identification Number Information

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

ACTION: Notice of request for public comments regarding an extension 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 Taxpayer Identification Number Information.

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.

DATES: Submit comments on or before October 26, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0097, Taxpayer Identification Number Information, 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 9000–0097, Taxpayer Identification Number Information". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0097, Taxpayer Identification Number Information" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0097, Taxpayer Identification Number Information.

Instructions: Please submit comments only and cite Information Collection 9000–0097, Taxpayer Identification Number Information, 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, Contract Policy Division, GSA, (202) 501–1448 or email at *curtis.glover@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with 31 U.S.C. 7701(c), a contractor doing business with a Government agency is required to furnish its Tax Identification Number (TIN) to that agency. 31 U.S.C. 3325(d) requires the Government to include, with each certified voucher prepared by the Government payment office and submitted to a disbursing official, the TIN of the contractor receiving payment under the voucher. 26 U.S.C. 6050M, as implemented in the Department of Treasury, Internal Revenue Service (IRS) regulations at Title 26 of the Code of Federal Regulations (CFR), requires heads of Federal executive agencies to report certain information to the IRS. 26 U.S.C. 6041 and 6041A, as implemented in 26 CFR, in part, requires payors, including Government agencies, to report to the IRS, on form 1099, payments made to certain contractors.

To comply with the requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS in 26 CFR, FAR clause 52.204–3, Taxpayer Identification, requires a potential Government contractor to submit, among other information, its TIN. The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the contractor's relationship with the Government. A contractor is not required to provide its TIN on each contract in accordance with FAR clause 52.204–3, Taxpayer Identification, when FAR clause 52.204–7, Central Contractor

Registration, is inserted in contracts. FAR clause 52.204–7 requires a potential Federal contractor to provide its TIN in the Central Contractor Registration (CCR) system.

B. Annual Reporting Burden

The annual reporting burden decreased from what was published in the **Federal Register** at 73 FR 20613, on April 16, 2008. The decrease is attributed to a revised estimate of the respondents and hours per response. A potential federal contractor is required to complete a one-time registration in CCR to provide basic information in order to be awarded a Federal Government contract. Part of a potential Federal contractor's CCR registration includes providing its TIN in accordance with FAR 52.204–7. It is estimated that a significant number of Federal contractors will not be required to submit their TIN under this collection at FAR 52.204–3, due to the requirement to submit their TIN during the registration process. Based on Federal procurement Data Systems (FPDS) data, 193,397 unique contractors were awarded Federal Government contracts in Fiscal Year 2011 (FY11). We estimate that fifteen percent of the FY11 unique vendors, responding on average to three solicitations per year, are required to provide their TIN in accordance with FAR 52.204–3. In addition, based on the TIN being readily available business information within contractor's system, the estimated hours per response is decreased to .10. The revised estimate of the annual reporting burden requirements is reflected below.

Respondents: 29,010.

Responses per Respondent: 3.

Total Responses: 87,030.

Hours per Response: .10.

Total Burden Hours: 8,703.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0097, Taxpayer Identification Number Information, in all correspondence.

Dated: August 17, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–20996 Filed 8–24–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0132; Docket 2012–0076; Sequence 61]

Federal Acquisition Regulation; Information Collection; Contractors' Purchasing Systems Reviews

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

ACTION: Notice of request for public comments regarding an extension 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 contractors' purchasing systems reviews.

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.

DATES: Submit comments on or before October 26, 2012.

ADDRESSES: Submit comments identified by *Information Collection 9000–0132, Contractors' Purchasing Systems Reviews*, 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 9000–0132, Contractors' Purchasing Systems Reviews". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0132, Contractors' Purchasing Systems Reviews" on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0132, Contractors' Purchasing Systems Reviews.

Instructions: Please submit comments only and cite Information Collection 9000–0132, Contractors' Purchasing Systems Reviews, 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: Ms. Patricia Corrigan, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 208–1963 or email at *patricia.corrigan@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The objective of a contractor purchasing system review (CPSR), as discussed in Part 44 of the FAR, is to evaluate the efficiency and effectiveness with which the contractor spends Government funds and complies with Government policy when subcontracting. The review provides the administrative contracting officer a basis for granting, withholding, or withdrawing approval of the contractor's purchasing system.

B. Annual Reporting Burden

There is no single data collection process or system, e.g., Federal Procurement Data System (FPDS), that identifies the number of CPSRs conducted governmentwide. To date no public comments or questions have been received regarding the burden estimates included in the currently approved clearance. However, for purposes of this clearance, the estimated Average Burden Per Response is estimated at 25 hours per completion. Based on coordination with a Government agency that conducts CPSRs, the estimate has been adjusted upwards from the current 17 hours to 25 hours, in order to provide a more accurate accounting of the contractors' time necessary for reading information and preparing for a CSPR.

Number of Respondents: 1,580.

Responses per Respondent: 1.

Total Responses: 1,580.

Average Burden per Response: 25.

Total Burden Hours: 39,500.

Obtaining Copies of Proposals: Requesters may obtain a copy of the

information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0132, Contractors' Purchasing Systems Reviews, in all correspondence.

Dated: August 17, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–20994 Filed 8–24–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 42; OMB Control No. 9000–0071]

Federal Acquisition Regulation; Information Collection; Price Redetermination

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

ACTION: Notice of request for public comments regarding an extension of 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 Price Redetermination.

Public comments are particularly invited on: Whether this collection of information is necessary; 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.

DATES: Submit comments on or before October 26, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0071, Price Redetermination, 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 9000–0071, Price Redetermination". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0071, Price Redetermination" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0071, Price Redetermination.

Instructions: Please submit comments only and cite Information Collection 9000–0071, Price Redetermination, 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 Governmentwide Acquisition Policy, GSA, (202) 501–1448 or email *Curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 16.205, Fixed-price contracts with prospective price redetermination, provides for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. FAR 16.206, Fixed price contracts with retroactive price redetermination, provides for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The information is used to establish fair price adjustments to Federal contracts.

B. Annual Reporting Burden

The estimated total burden is lower than that published the **Federal Register** at 74 FR 62783, on December 1, 2009. This is due to the decrease in the estimated number of respondents. Based on Fiscal Year 2011 information from the Federal Procurement Data System, an estimated 230 unique contractors were awarded 1,970 fixed-price redetermination contracts. Thus, each vendor responded on average 8.6 times a year (rounded up to 9). The hours per response is increased to 2 hours after a reassessment of the time required to prepare and report the information.

Respondents: 230.
Responses per Respondent: 9.
Annual Responses: 2,070.
Hours per Response: 2.
Total Burden Hours: 4,140.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

Dated: August 17, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–20992 Filed 8–24–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 46; OMB Control No. 9000–0083]

Federal Acquisition Regulation; Information Collection; Qualification Requirements

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

ACTION: Notice of reinstatement request for an information collection requirement regarding 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 Qualification Requirements.

Public comments are particularly invited on: Whether this collection of information is necessary; 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.

DATES: Submit comments on or before October 26, 2012.

ADDRESSES: Submit comments identified by *Information Collection 9000–0083, Qualification Requirements*, 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 9000–0083, Qualification Requirements". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0083, Qualification Requirements" on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0083, Qualification Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0083, Qualification Requirements, 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: Ms. Patricia Corrigan, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 208–1963 or *patricia.corrigan@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR subpart 9.2 and the associated clause at FAR 52.209–1, implement the statutory requirements of 10 U.S.C. 2319 and 41 U.S.C. 3311, which allows an agency to establish a qualification requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract. Under the qualification requirements, an end item, or a component thereof, may be required to be prequalified. The clause at FAR 52.209–1, Qualification Requirements, requires offerors who have met the qualification requirements to identify the offeror's name, the manufacturer's name, source's name, the item name, service identification, and test number (to the extent known).

The contracting officer uses the information to determine eligibility for award when the clause at 52.209–1 is included in the solicitation. Alternatively, items not yet listed may be considered for award upon the submission of evidence of qualification with the offer.

B. Annual Reporting Burden

There is no Governmentwide data collection process or system, e.g., Federal Procurement Data System (FPDS) which identifies the number of solicitations issued that include qualification requirements. To date, no public comments or questions have been received regarding the burden estimates included in the currently approved clearance. However, a change is being made regarding the estimated number of responses annually from 100 (in the currently approved burden) to a more appropriate estimated average of 5 responses annually (i.e., the number of proposals received per solicitation issued). For purposes of this clearance, time required to read and prepare information remains at 15 minutes per submission assuming an offeror's use of electronic information tracking and retrieval processes.

Respondents: 2,207.

Responses per Respondent: 5.

Annual Responses: 11,035.

Hours per Response: .25.

Total Burden Hours: 2,758.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC, 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0083, Qualification Requirements, in all correspondences.

Dated: August 17, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–20998 Filed 8–24–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board; Notice of Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). The topic of the meeting on October 23–25, 2012 is to review new start research and development projects requesting Strategic Environmental Research and Development Program funds in excess of $1 million. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

DATES: Tuesday, October 23, 2012 from 9 a.m. to 5 p.m., Wednesday, October 24 from 9 a.m. to 3:45 p.m. and Thursday, October 25 from 8:30 a.m. to 10:30 a.m.

ADDRESSES: George Mason Conference Room at Metro Offices, 4601 North Fairfax Drive, Suite 1200, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Bunger, SERDP Office, 4800 Mark Center Drive, Suite 17D08 Alexandria, VA 22350–3600, by telephone at (571) 372–6384.

Dated: August 21, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–20921 Filed 8–24–12; 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: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Department of Defense Military Family Readiness Council (MFRC). The purpose of the Council meeting is to review the military family programs which will be the focus for the Council for next year, and address

selected concerns of military family organizations.

The 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 *FamilyReadinessCouncil@osd.mil* no later than 5:00 p.m. on Wednesday, September 12, 2012 to arrange for parking and escort into the conference room inside the Pentagon.

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. on Thursday, September 13, 2012.

DATES: September 20, 2012, from 2:00 p.m. to 4:00 p.m.

ADDRESSES: Pentagon Conference Center B6 (escorts will be provided from the Pentagon Metro entrance).

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Ms. Betsy Graham, Office of the Deputy Under 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: *FamilyReadinessCouncil@osd.mil.*

SUPPLEMENTARY INFORMATION: Meeting agenda.

Thursday, September 20, 2012

Welcome & Administrative Remarks.
Review and Comment on Council Action from December meeting.
Priority Areas Briefings.
Office of the Secretary of Defense Changes to Family Policy.
Update on Efforts to Evaluate Family Programs.
Closing Remarks.

Note: Exact order may vary.

Dated: August 22, 2012.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

[FR Doc. 2012–20987 Filed 8–24–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2012–0014]

Proposed Collection; Comment Request

AGENCY: Department of Defense/ Department of the Air Force/Air Force Office of Scientific Research (DoD/ USAF/AFOSR).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a reinstatement of a public information collection and seeks public comment on the provisions thereof. 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 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 26, 2012.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Air Force Office of Scientific Research, ATTN: AFOSR/ RSPP, 875 North Randolph Street, Suite 325. Room 3112, Arlington, VA 22203–1768, or email *NDSEG@afosr.af.mil* or call AFOSR/RSPP, at 703–588–1779.

Title; Associated Form; and OMB Number: DoD National Defense Science and Engineering Graduate (NDSEG) Fellowships Program; National Defense Science and Engineering Graduate (NDSEG) Fellowship Application; OMB Number 0701–0154.

Needs and Uses: Support of Science, Mathematics, and Engineering Education, 10 U.S.C. 2191, states that "the Secretary of Defense shall prescribe regulations providing for the award of fellowships to citizens and nationals of the United States who agree to pursue graduate degrees in science, engineering or other fields of study designated by the Secretary (of Defense) to be of priority interest to the DoD. Recipients shall be selected on the basis of a nationwide competition. The DoD is committed to increasing the number and quality of the nation's scientists and engineers. Application information will be used for evaluation and selection of students to be awarded fellowships. Failure to respond renders the student ineligible for a fellowship.

Affected Public: Individuals or households.

Annual Burden Hours: 36,000 hours.

Number of Respondents: 3,000.

Responses per Respondent: 1.

Average Burden per Response: 12 hours.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are students enrolled in doctoral programs in science and engineering desiring to complete their education. The on-line, electronic application provides information necessary for evaluation and selection of fellowships.

The NDSEG fellowships allow recipients to pursue their graduate studies at whichever United States institution they choose to attend. The goal is to provide the United States with talented, doctorally trained American men and women who will lead state of the art research projects in disciplines having the greatest payoff to national defense requirements. Approximately 190–200 3-year fellowships are anticipated to be awarded in the fields of Aeronautical and Astronautical Engineering, Biosciences, Chemical Engineering, Chemistry, Civil Engineering, Cognitive, Neural, and Behavioral Sciences, Computer and Computational Sciences, Electrical Engineering, Geosciences, Material Science and Engineering, Mathematics, Mechanical Engineering, Naval Architecture and Ocean Engineering, Oceanography, and Physics.

Dated: August 22, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–21026 Filed 8–24–12; 8:45 am]

BILLING CODE 5001–06–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, September 12, 2012. The hearing will be part of the Commission's regularly scheduled business meeting. The conference session and business meeting both are open to the public and will be held at the Commission's office building located at 25 State Police Drive, West Trenton, New Jersey.

The morning conference session will begin at 11 a.m. and will include updates by DRBC staff on the Nutrient Strategy for the Delaware Estuary and Implementation of the Basin Plan.

Items for Public Hearing. The subjects of the public hearing to be held during the 1:30 p.m. business meeting on September 12, 2012 include draft dockets for which the names and brief descriptions will be posted on the Commission's Web site at *www.drbc.net* at least 10 days prior to the meeting date. Complete draft dockets will be posted on the Web site ten days prior to the meeting date. Additional public records relating to the dockets may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

Other Agenda Items. In addition to the public hearings on draft dockets, the agenda for the 1:30 p.m. business meeting includes the standard business meeting items: adoption of the Minutes of the Commission's July 11, 2012 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 a public dialogue session.

Opportunities to Comment. Individuals who wish to comment for the record on a hearing item or to address the Commissioners informally during the public dialogue portion of the meeting 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. Written comment on items scheduled for hearing may be submitted in advance of the meeting 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.* Written comment on dockets should also be furnished directly to the Project Review Section at the above address or fax number or by email to *william.muszynski@drbc.state.nj.us.*

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.

Agenda Updates. Note that conference items are subject to change and items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. 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.

Dated: August 21, 2012.

Robert Tudor,

Deputy Executive Director.

[FR Doc. 2012–20997 Filed 8–24–12; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Institute of Education Sciences; 2012–13 Teacher Follow-Up Survey (TFS:2013) and Principal Follow-Up Survey (PFS:2013) to the Schools and Staffing Survey (SASS)

SUMMARY: This request from the National Center for Education Statistics (NCES), of the U.S. Department of Education (ED), is for clearance for the full scale data collection for the 2012–13 Teacher Follow-up Survey (TFS:2013) and Principal Follow-up Survey (PFS:2013) to the 2011–12 Schools and Staffing Survey (SASS:2012). The seventh cycle of SASS (2011–12) is currently being conducted and the proposed TFS:2013 will be the seventh corresponding cycle of TFS, while PFS:2013 will be the second cycle of PFS. The Schools and Staffing Survey (SASS) is an in-depth, nationally-representative survey of first through twelfth grade public and private school teachers, principals, schools, library media centers, and school districts. Kindergarten teachers in schools with at least a first grade are also surveyed. For traditional public school districts, principals, schools, teachers, and school libraries, the survey estimates are state-representative. For public charter schools, principals, teachers, and school libraries, the survey estimates are nationally-representative. For private school principals, schools, and teachers, the survey estimates are representative of private school types. The TFS is a survey of teachers with the main purpose of providing a one-year teacher attrition rate. The PFS is a survey of principals that assesses how many school principals work in the same school as reported a year earlier in SASS:2012, how many have moved to become a principal at another school, and how many have left the principalship altogether. Similar to earlier TFS collections, the TFS:2013 sample of 7,000 teachers (drawn using a sampling design similar to that used in earlier TFS collections) is a sub-sample of the teachers who responded to SASS:2012. The PFS:2013 sample includes all of the approximately 9,800 schools whose principals completed questionnaires in SASS:2012.

DATES: Interested persons are invited to submit comments on or before September 26, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 04872. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information

collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2012–13 Teacher Follow-up Survey (TFS:2013) and Principal Follow-up Survey (PFS:2013) to the Schools and Staffing Survey (SASS).

OMB Control Number: 1850–0598.

Type of Review: Revision.

Total Estimated Number of Annual Responses: 15,469.

Total Estimated Number of Annual Burden Hours: 2,876.

Abstract: This request from the National Center for Education Statistics (NCES), of the U.S. Department of Education (ED), is for clearance for the full scale data collection for the 2012–13 Teacher Follow-up Survey (TFS:2013) and Principal Follow-up Survey (PFS:2013) to the 2011–12 Schools and Staffing Survey (SASS:2012). The seventh cycle of SASS (2011–12) is currently being conducted and the proposed TFS:2013 will be the seventh corresponding cycle of TFS, while PFS:2013 will be the second cycle of PFS. The Schools and Staffing Survey (SASS) is an in-depth, nationally-representative survey of first through twelfth grade public and private school teachers, principals, schools, library media centers, and school districts. Kindergarten teachers in schools with at least a first grade are also surveyed. For traditional public school districts, principals, schools, teachers, and school libraries, the survey estimates are state-representative. For public charter schools, principals, teachers, and school libraries, the survey estimates are nationally-representative. For private school principals, schools, and teachers, the survey estimates are representative of private school types. The TFS is a survey of teachers with the main purpose of providing a one-year teacher attrition rate. The PFS is a survey of principals that assesses how many school principals work in the same school as reported a year earlier in SASS:2012, how many have moved to become a principal at another school, and how many have left the principalship altogether. Similar to earlier TFS collections, the TFS:2013 sample of 7,000 teachers (drawn using a sampling design similar to that used in earlier TFS collections) is a sub-sample of the teachers who responded to SASS:2012. The PFS:2013 sample includes all of the approximately 9,800 schools whose principals completed questionnaires in SASS:2012.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–21045 Filed 8–24–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Institute of Education Sciences; Education Longitudinal Study 2002 (ELS:2002) Third Follow-Up Postsecondary Transcripts (ELS:2002 PETS) and Financial Aid Feasibility Study (ELS:2002 FAFS)

SUMMARY: The Education Longitudinal Study of 2002 (ELS:2002) is a nationally representative study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample members. The study focuses on achievement growth in mathematics in the high school years and its correlates, the family and school social context of secondary education, transitions from high school to postsecondary education and/or the labor market, and experiences during the postsecondary years. Major topics covered for the postsecondary years include postsecondary education access, choice, and persistence; baccalaureate and sub-baccalaureate attainment; the work experiences of the non-college-bound; and other markers of adult status such as family formation, civic participation, and other young adult life course developments. This collection includes the third follow-up 2012 full scale data collection.

DATES: Interested persons are invited to submit comments on or before September 26, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 04873. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Education Longitudinal Study 2002 (ELS:2002) Third Follow-up Postsecondary Transcripts (ELS:2002 PETS) and Financial Aid Feasibility Study (ELS:2002 FAFS).

OMB Control Number: 1850–0652.

Type of Review: Revision.

Total Estimated Number of Annual Responses: 3,084.

Total Estimated Number of Annual Burden Hours: 2,382.

Abstract: The Education Longitudinal Study of 2002 (ELS:2002) is a nationally

representative study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample members. The study focuses on achievement growth in mathematics in the high school years and its correlates, the family and school social context of secondary education, transitions from high school to postsecondary education and/or the labor market, and experiences during the postsecondary years. Major topics covered for the postsecondary years include postsecondary education access, choice, and persistence; baccalaureate and sub-baccalaureate attainment; the work experiences of the non-college-bound; and other markers of adult status such as family formation, civic participation, and other young adult life course developments. Data collections took place in 2002, 2004, 2006 (two years out of high school), and now will take place in 2012, when most sample members are around 26 years of age. The third follow-up field test was conducted in 2011. This submission requests OMB's approval for the third follow-up 2012 full scale data collection.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–21047 Filed 8–24–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring, Surveillance and Remediation Committee and Waste Management Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 12, 2012 2 p.m.–4 p.m.

ADDRESSES: NNMCAB Conference Room, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring, Surveillance and Remediation Committee (EMS&R): The EMS&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EMS&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Tentative Agenda

1. Approval of Agenda
2. Approval of Minutes of June 13, 2012
3. Update from Executive Committee—Ralph Phelps
4. Update from DOE—Ed Worth
5. Consideration and Action on Fiscal Year 2013 Committee Work Plans
6. 2:45 p.m. Storm Water Management Update—Danny Katzman, Los Alamos National Security
7. 3:45 p.m. Public Comment Period
8. 4 p.m. Adjourn

Public Participation: The NNMCAB's EMS&R and WM Committees welcome the attendance of the public at their combined committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/.*

Issued at Washington, DC, on August 21, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–21037 Filed 8–24–12; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, September 20, 2012, 6 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Reinhard Knerr, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration,

waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Breaks Taken as Appropriate.

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Reinhard Knerr as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Reinhard Knerr at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Reinhard Knerr at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2011Meetings.html.*

Issued at Washington, DC on August 21, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–21038 Filed 8–24–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology (PCAST)

AGENCY: Department of Energy.

ACTION: Notice of partially-closed meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially closed meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2.

DATES: Friday, September 7, 2012.

ADDRESSES: The meeting will be held at the National Academy of Sciences (in the Lecture Room), 2101 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Information regarding the meeting agenda, time, location, and how to register for the meeting is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* A live video webcast and an archive of the webcast after the event are expected to be available at *http://whitehouse.gov/ostp/pcast.* The archived video will be available within one week of the meeting. Questions about the meeting should be directed to Dr. Deborah D. Stine, PCAST Executive Director, by email at: *dstine@ostp.eop.gov;* or telephone: (202) 456–6006. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House and from cabinet departments and other Federal agencies. See the Executive Order at *http://www.whitehouse.gov/ostp/pcast.* PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of the Massachusetts Institute of Technology and Harvard.

Type of Meeting: Open and Closed.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on Friday, September 7, 2012, from 9 a.m.–12:30 p.m.

Open Portion of Meeting: During this open meeting, PCAST is tentatively scheduled to hear from speakers who will provide information on innovation and public private partnerships, and innovation inducement prizes. PCAST will also receive an update on its study of the Networking and Information Technology Research and Development (NITRD) program. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately 1 hour with the President on September 7, 2012, which must take place in the White House for the President's scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because such portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 U.S.C. 552b(c)(1).

This notice is being published less than 15 days prior to the meeting date due to programmatic issues, logistical circumstances, and member's availability.

Public Comments: It is the policy of the PCAST to accept written public comments of any length, and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on September 7, 2012, at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast.* This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *http://whitehouse.gov/ostp/pcast,* no later than 12:00 p.m. (EDT) on Friday, August 31, 2012. Phone or email reservations will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. If more speakers

register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the PCAST members.

Written Comments: Although written comments are accepted continuously, written comments should be submitted to PCAST no later than 12:00 p.m. (EDT) on August 31, 2012, so that the comments may be made available to the PCAST members prior to this meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled "Connect with PCAST."

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Stine at least seven business days prior to the meeting so that appropriate arrangements can be made.

Issued in Washington, DC on August 22, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–21063 Filed 8–24–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Department of Energy, Office of Science.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Friday, September 21, 2012, 9 a.m.–4:30 p.m.

ADDRESSES: Hilton Washington DC North/Gaithersburg, 620 Perry Parkway, Gaithersburg, Maryland 20877, 301–977–8900.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy; SC–26/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: 301–903–0536

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda: Agenda will include discussions of the following:

Friday, September 21, 2012

- Perspectives from Department of Energy and National Science Foundation
- Update from the Department of Energy and National Science Foundation's Nuclear Physics Office
- Presentation of the Charge for the Committee of Visitors
- Status of the Charge for the Implementation of the Long Range Plan.
- Presentation on the NP2010 NRC Report
- Public Comment (10-minute rule)

Note: The NSAC Meeting will be broadcast live on the Internet. You may find out how to access this broadcast by going to the following site prior to the start of the meeting: *www.tvworldwide.com/events/doe/120921*. A video record of the meeting including the presentations that are made will be archived at this site after the meeting ends.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May, 301–903–0536 or *Brenda.May@science.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available on the Committee's Web site at: *http://science.energy.gov/np/nsac* Web site for viewing.

Issued in Washington, DC on August 21, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–21039 Filed 8–24–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The EIA has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Uranium Data Program, OMB Control Number 1905–0160. The proposed collection will modify and continue the use of Form EIA–851A "Domestic Uranium Production Report (Annual)," Form EIA–851Q "Domestic Uranium Production Report (Quarterly)," and the Form EIA–858 "Uranium Marketing Annual Survey." EIA proposed minor changes to Form EIA–851Q and its reporting instructions, and to the reporting instructions to Form EIA–851A and Form EIA–858.

DATES: Comments regarding this proposed information collection must be received on or before September 26, 2012. 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 DOE Desk Officer at OMB 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 the

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

Department of Energy, U.S. Energy Information Administration, Attn: Douglas Bonnar, EI–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–1085, Fax at 202–586–3045, Email at *douglas.bonnar@eia.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Douglas Bonnar at the contact information given above. Forms and instructions are also available on the Internet at: *http://www.eia.gov/survey/#uranium*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1905–0160; (2) *Information Collection Request Title:* Uranium Data Program; (3) *Type of Request:* Extension of a currently approved collection; (4) *Purpose:* Collects basic data necessary to meet EIA's legislative mandates as well as the needs of the Congress, Federal Government, State and local governments, industry, and the general public; (5) *Annual Estimated Number of Respondents:* 131; (6) *Annual Estimated Number of Total Responses:* 205; (7) *Annual Estimated Number of Burden Hours:* 1,460; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that there are no additional costs to respondents associated with the surveys other than the costs associated with the burden hours.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Public Law 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, on August 16, 2012.

Stephanie Brown,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2012–21020 Filed 8–24–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–496–000]

Colorado Interstate Gas Company, L.L.C.; Notice of Application

Take notice that on August 7, 2012, Colorado Interstate Gas Company, L.L.C. (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in the above captioned docket an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing the construction of its High Plains 2013 Expansion Project. The project consists of: (i) A new 7.75 mile, 24-inch diameter pipeline, the Lancaster Lateral, in Weld County, Colorado; (ii) an overpressure protection facility; (iii) two new receipt meter stations, and (iv) the modification of existing facilities. Also CIG requests a predetermination of rolled in rate treatment related to the cost of service on the new facilities that will allow CIG to meet market demand for transportation service on the High Plains System from new natural gas processing facilities to the Cheyenne Hub located in Weld County, Colorado, all as more fully set forth in the application which is on file with the Commission and opens to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Francisco Tarin, Director, Regulatory Affairs, Colorado Interstate Gas Company, L.L.C.; P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 667–7517 or by fax at (719) 667–7534 or Mark A. Minich, General Counsel, Colorado Interstate Gas Company, L.L.C.; P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 520–4416 or by fax at (719) 520–4415.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a

document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 10, 2012.

Dated: August 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–20905 Filed 8–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No.CP12–497–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on August 8, 2012, Transcontinental Gas Pipe Line Company, LLC (Transco), filed in the above referenced docket an application pursuant to section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, for authorization to replace approximately 2,167 feet of existing 30-inch pipeline on Transco's mainline in East Brandywine and East Caln Townships, Chester County, Pennsylvania with a 42-inch pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Scott Turkington, Director Rates & Regulatory, Transcontinental Gas Pipe Line Company, LLC, Post Office Box 1396, Houston, TX 77251–1396, by telephone at (713) 215–3391 or by email at *scott.c.turkington@williams.com* and Stephen A. Hatridge, Senior Counsel, Transcontinental Gas Pipe Line Company, LLC, Post Office Box 1396, Houston, TX 77251–1396, by telephone at (713) 215–2312 or by email at *stephen.a.hatridge@williams.com*.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. Eastern Time on September 10, 2012.

Dated: August 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–20906 Filed 8–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14440–000]

City of Pendleton, Oregon; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 14440–000.

c. *Date filed:* May 14, 2012.

d. *Applicant:* City of Pendleton, Oregon.

e. *Name of Project:* Energy Recovery Phase II Project.

f. *Location:* The proposed Energy Recovery Phase II Project would be located on a water supply pipeline for the City of Pendleton in Umatilla County, Oregon. The land on which all the project structures are located is owned by the applicant.

g. *Filed Pursuant to:* Federal Power Act 16 USC §§ 791a–825r.

h. *Applicant Contact:* Mr. Robb Corbett, City of Pendleton, Oregon, 500 SW Dorian Ave., Pendleton, OR 97801 phone (541) 966–0201.

i. *FERC Contact:* Robert Bell, (202) 502–6062, *robert.bell@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* Due to the small size of the proposed project, as well as the resource agency consultation letters filed with the application, the 60-day timeframe specified in 18 CFR 4.34(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 30 days from the issuance date of this notice. All reply comments filed in response to comments submitted by any resource agency, Indian tribe, or person, must be filed with the Commission within 45 days from the issuance date of this notice.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/docs-filing/efiling.asp.* The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, it must also serve a copy of the document on that resource agency.

l. *Description of the project:* The Energy Recovery Phase II Project proposes the following developments:

Well 2 Development

The Well 2 development would consist of: (1) An existing powerhouse containing one proposed generating unit with an installed capacity of 118.6 kilowatts; and (2) appurtenant facilities. The applicant estimates Well 2 would have an average annual generation of 0.512 gigawatt-hour.

Well 4 Development

The Well 4 development would consist of: (1) An existing powerhouse containing one proposed generating unit with a total installed capacity of 60.1 kilowatts; and (2) appurtenant facilities. The applicant estimates Well 4 would have an average annual generation of 0.259 gigawatt-hour.

Well 8 Development

The Well 8 development would consist of: (1) An existing powerhouse containing one proposed generating unit with an installed capacity of 55.7 kilowatts; and (2) appurtenant facilities. The applicant estimates that Well 8 would have an average annual generation of 0.240 gigawatt-hour.

The entire project would have a total installed capacity of 234.4 kilowatts and an average annual generation of 1.012 gigawatt-hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the "eLibrary" link. Enter the docket number, P–14440, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

p. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS", "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading, the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and seven copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: August 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–20903 Filed 8–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–499–000]

East Tennessee Natural Gas, LLC; Notice of Request Under Blanket Authorization

Take notice that on August 9, 2012, East Tennessee Natural Gas, LLC (East Tennessee), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP12–499–000, an application pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to abandon in place two standby compressor units and abandon in place or remove related appurtenant equipment at its Glade Spring

Compressor Station in Washington County, Virginia, under East Tennessee's blanket certificate issued in Docket No. CP82–412–000,[1] all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

East Tennessee proposes to abandon in place two standby 660 horsepower reciprocating natural gas compressor units and abandon in place or remove related appurtenant equipment at the Glade Spring Compressor Station. East Tennessee states that the two standby compressor units are outdated and their abandonment would have no effect on any of East Tennessee's transportation customers. East Tennessee also states that in order to install additional noise control equipment and update the two compressor units would require significant capital investment. Further, East Tennessee estimates that it would cost $15,900,942 to construct these facilities today.

Any questions concerning this application may be directed to Lisa A. Connolly, General Manager, Rates & Certificates, East Tennessee Natural Gas, LLC, P.O. Box 1642, Houston, Texas 77251–1642, or via telephone at (713) 627–4102, facsimile (713) 627–5947, or via email: *laconnolly@spectraenergy.com*.

This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Dated: August 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–20907 Filed 8–24–12; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,413 (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD12–12–000]

Coordination Between Natural Gas and Electricity Markets

Supplemental Notice of Technical Conference

As announced in the Notices issued on July 5, 2012 [1] and July 17, 2012,[2] the Federal Energy Regulatory Commission (Commission) staff will hold a technical conference on Tuesday, August 28, 2012, from 9 a.m. to approximately 5:30 p.m. local time to discuss gas-electric coordination issues in the West region.[3] The agenda and list of roundtable participants for this conference is attached. This conference is free of charge and open to the public. Commission members may participate in the conference.

The West region technical conference will be held at the following venue: DoubleTree by Hilton Hotel Portland. 1000 NE Multnomah Street, Portland, OR, 97232, USA, Tel (reservations and other information): 1–503–281–6111, 1–800–996–0510 (toll free).

[1] Coordination between Natural Gas and Electricity Markets, Docket No. AD12–12–000 (July 5, 2012) (Notice Of Technical Conferences) (*http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13023450*); 77 FR 41184 (July 12, 2012) (*http://www.gpo.gov/fdsys/pkg/FR-2012-07-12/pdf/2012-16997.pdf*).

[2] Coordination between Natural Gas and Electricity Markets, Docket No. AD12–12–000 (July 17, 2012) (Supplemental Notice Of Technical Conferences) (*http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13029403*).

[3] As indicated in the July 5, 2012 notice, for purposes of this technical conference, the West region includes the Western Interconnection.

If you have not already done so, those who plan to attend the West region technical conference are strongly encouraged to complete the registration form located at: *www.ferc.gov/whats-new/registration/nat-gas-elec-mkts-form.asp*. There is no deadline to register to attend the conference. The dress code for the conference will be business casual. The agenda and roundtable participants for the remaining technical conferences will be issued in supplemental notices at later dates.

The West region technical conference will not be transcribed. However, there will be a free audiocast of the conference. The audiocast will allow persons to listen to the West region technical conference, but not participate. Anyone with Internet access who desires to listen to the West region conference can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating the West region technical conference in the Calendar. The West region technical conference will contain a link to its audiocast. The Capitol Connection provides technical support for audiocasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or call 703–993–3100.[4]

Information on this and the other regional technical conferences will also be posted on the Web site *www.ferc.gov/industries/electric/indus-act/electric-coord.asp*, as well as the Calendar of Events on the Commission's Web site *www.ferc.gov*. Changes to the agenda or list of roundtable participants for the West region technical conference, if any, will be posted on the Web site *www.ferc.gov/industries/electric/indus-act/electric-coord.asp* prior to the conference.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

[4] The audiocast will continue to be available on the Calendar of Events on the Commission's Web site *www.ferc.gov* for three months after the conference.

For more information about this and the other regional technical conferences, please contact: Pamela Silberstein, Federal Energy Regulatory Commission, 888 First Street NE.,Washington, DC. 20426, (202) 502–8938, *Pamela.Silberstein@ferc.gov*;Sarah McKinley, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *Sarah.McKinley@ferc.gov*.

Dated: August 20, 2012.

Kimberly D. Bose,

Secretary.

Coordination Between Natural Gas and Electricity markets

Docket No. AD12–12–000

West Region—August 28, 2012, Portland, OR

Agenda

9–9:15 Welcome and Opening Remarks

9:15–9:45 Regional Energy Infrastructure Presentation (FERC staff)

9:45–12 First Roundtable Discussion: Gas-Electric Coordination and Market Structures in the West

The Western region consists of bilateral markets, trading hubs, and the organized wholesale energy markets of the California ISO (CAISO), and varying access to fuel supplies and natural gas storage across several sub-regions. Public and non-public utilities may participate in these markets. Commenters in the West stress the need for regional and even sub-regional approaches to gas-electric coordination, in light of the different market structures and mix of resources that co-exist. The Commission anticipates that the differing perspectives of the Pacific Northwest, Rocky Mountain, Desert Southwest, and California sub-regions will be reflected in the discussion of gas-electric coordination topics and challenges.

Many within the Western region expect that a significant portion of new generating capacity installed in the next ten years will use natural gas as its primary fuel, which has raised concerns for some regarding the sufficiency of pipeline capacity to accommodate this growth in gas-fired generation. Approaches to addressing infrastructure adequacy also vary across the region. Some commenters stress the need for cost recovery mechanisms or other market enhancements that provide incentives for appropriate fuel arrangements. Others emphasize regionally-based approaches to determine whether this is demand for additional pipeline capacity and services, or whether there are ways the region can better deploy existing capacity to meet demand growth. Some commenters suggest that the Commission has a role to play, in terms of possible refinements to its blanket certificate process.

While some pipelines offer flexible pipeline and storage services, commenters suggest that more flexibility and additional nomination opportunities are needed by operators of gas-fired generation in some areas. Commenters differ on the impact of the mismatch in the scheduling and delivery timelines between the gas and electric industries, with some calling for greater harmonization between natural gas trading and transportation nomination and scheduling timelines and electricity trading and scheduling times within the West, and others contending that the gas-electric mismatch presents no significant challenges or that it is a longer-term issue.

Roundtable participants are encouraged to be prepared to discuss the following:

1. Describe the policies and practices in your region that impact the procurement of gas transportation and storage capacity purchases by gas-fired generators. What changes do you expect, if any, as the use of gas for electric generation increases? Salt River Project in its comments suggests the possible development of a gas-sharing pool similar to regional electric reserve sharing pools.[5] Would this type of development help to address the disincentives to long-term gas supply and transportation contracting noted by the California Public Utilities Commission (CPUC)? [6] Some commenters state that the West already engages in substantial outage and maintenance coordination between the electric and pipeline industries. How, if at all, is the resulting knowledge of pipeline conditions taken into account in electric dispatch and pricing decisions, and how is the resulting knowledge of electric system conditions taken into account in pipeline operational decisions?

2. How does your region approach the question of gas infrastructure adequacy? Are there reforms to the organized wholesale electric market rules that CAISO could consider as a possible means to allow a gas-fired generator to recover the costs of contracting for gas infrastructure expansion needed to serve electric markets in the region? To what extent do bilateral contracts provide for the recovery of such costs, both in CAISO and in the areas that do not have organized markets? Commenters like Puget Sound Energy, Inc. (Puget Sound Energy) suggest that the immediate need to add infrastructure could be minimized by allowing pipeline capacity release for periods longer than one year at greater than maximum tariff rate.[7] What would be the advantages and drawbacks to these proposals?

3. What types of services offered by natural gas pipelines and storage providers throughout the West would best meet the needs of gas-fired generators in the region? Recognizing that some pipelines offer additional nomination opportunities beyond the current standards, would generators like to see additional operating flexibility in pipeline services, and if so, what kind? For example, one commenter

[5] Salt River Project Agricultural Improvement and Power District March 30, 2012 Comments at 2.

[6] CPUC March 30, 2012 Comments at 7.

[7] Puget Sound Energy March 30, 2012 Comments at 10.

recommends that the Commission encourage gas storage operators to offer 24-hour service and balancing services. Another described an "intermittent gas" product conceptually similar to conditional firm electric transmission service.[8] Would proposals like these address generators' flexibility needs? Are these ideas feasible in the West, and, if so, how could they be structured? What financial assurances would gas pipelines and storage providers need to provide such services?

4. How diverse (or consistent) are nomination, scheduling and commitment practices across the region? How do the regions' utilities and generators manage the mismatch between the scheduling and commitment timelines on the electric side in local time and the NAESB standard gas pipeline practices? Are there areas in the West where this is more of a problem to generators than elsewhere? If so, can the gas and electric market scheduling timelines be adjusted in a way that improves matters for those regions where it is a problem?

12–1:30 Break

1:30–2:45 Second Roundtable Discussion: Communications/ Coordination/Information-Sharing

Each of the sub-regions that make up the West has experienced unexpected events that highlighted the need for improved communication and coordination between electric and gas entities: For example, Denver/the Rockies in December 2006; the Pacific Northwest in December 2009; California in September 2010; and the Southwest in February and September 2011.[9] Western commenters in this proceeding identified possible improvements including enhanced communication during emergency outages, coordination of maintenance outage scheduling, and FERC clarification of allowed information sharing under existing rules, particularly the Standards of Conduct.

Comments suggest that improving communications protocols between the gas and electric industry is one issue that may lend itself to more immediate resolution than other gas-electric coordination issues. This panel will discuss whether there are adequate communication protocols among the various stakeholders to assure appropriate gas-electric coordination and identify potential solutions to any issues.

Roundtable participants are encouraged to be prepared to discuss the following:

1. How are coordination and information-sharing regarding both emergency and planned outages handled by affected gas and electric entities in the different regions? Are improvements needed? Several entities in the Northwest stated that the gas and electric utility planners in the Northwest have initiated regular meetings to address resiliency in a coordinated manner.[10] What kind of coordination occurs and what kind of information is shared and with whom in preparation for extreme events that simultaneously and significantly affect both the gas and electric sectors. Are there any limitations on communication that seem unnecessarily restrictive? Should entities coordinate weather forecasts?

2. The gas pipelines in California and the CAISO have worked to improve their coordination of planned outages. What is the impact of electric system outages upon the gas system, and vice versa? Are further changes needed to allow for the coordination of planned outages? Will the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 impose new requirements upon inter-industry communication and coordination? If so, how are the industries planning for those new requirements?

3. Several commenters identified the nature of information that currently is available and shared between gas and electric entities. Is there additional information that needs to be shared that currently is not being shared, and are all the relevant and necessary parties included? Are the information-sharing mechanisms appropriate to the circumstances? Are improvements needed and who should be responsible for implementing improvements?

4. Parties in the West region expect increased reliance on gas-fired generators to result in greater daily fluctuations in gas usage than have been experienced in the past. For example, the 2012 California Gas Report prepared by the California Gas and Electric Utilities projects that there will be higher daily fluctuations in gas usage in the future, associated with the increase in renewable generation in the state.[11] What changes in communications and real time data sharing protocols will be needed to accommodate these expected variations?

5. Based on the experience in your region, what aspects of the FERC Standards of Conduct (which govern the relationship between a transmission provider and its marketing function) need to be clarified or potentially revised to improve gas-electric communications and coordination? For example, Puget Sound Energy recommends that the Commission should clarify that the exception for a transmission provider to disclose non-public transmission information with its merchant function should not be limited solely to an emergency on the transmission provider's system. Rather, Puget Sound Energy suggests that the exception be broadened to include non-emergency situations to prevent an emergency and also to permit communications to alleviate emergencies on a nearby/regional transmission provider's system.[12] Describe specific non-emergency situations to be covered by the suggested clarification to the emergency exception to prohibited communications. Although the Standards of Conduct do not restrict transmission providers from communicating with each other, describe how the Standards of Conduct prevent individuals managing resources on a number of transmission systems in a region from conferring with each other as suggested by Puget Sound Energy.

2:45–3 Break

3–4:30 Third Roundtable Discussion: Reliability

The bulk electric system is typically planned, as required by the mandatory reliability standards, to meet projected customer demands and system performance criteria, even under single element contingency conditions. Interstate natural gas pipelines are planned and expanded to meet firm gas delivery contracts between the pipelines and one or more shippers. As noted

[8] Salt River Project Agricultural Improvement and Power District March 30, 2012 Comments at 2; MidAmerican Energy Holdings Company March 30, 2012 Comments at 15.

[9] See "Investigation of the Controlled Outages of February 18, 2006 by Public Service Company of Colorado," Docket No. 06I–118EG, Initial Report to the Colorado Public Utilities Commission by the Staff of the Colorado Public Utilities Commission, July 7, 2006; "Plugging Into Natural Gas," *http://pnucc.org/sites/default/files/RidingNorthwestDec2009Event_0.pdf; http://www.cpuc.ca.gov/PUC/events/sanbruno.htm;* "Report on Outages and Curtailments During the Southwest Cold Weather Event of February 1–5, 2011," *http://www.ferc.gov/legal/staff-reports/08-16-11-report.pdf;* "Arizona-Southern California Outages on September 8, 2011," *http://www.ferc.gov/legal/staff-reports/04-27-2012-ferc-nerc-report.pdf.*

[10] Puget Sound Energy March 30, 2012 Comments at 6; Northwest Gas Association, *et al.*, March 29, 2012 Comments at 1.

[11] "2012 California Gas Report Prepared by the California Gas and Electric Utilities," July 2012, at 11; *http://www.socalgas.com/regulatory/documents/cgr/2012%20CGR_Final.pdf.*

[12] Puget Sound Energy March 30, 2012 Comments at 12–13.

above, almost all commenters from the West indicated they expect an increased reliance on natural gas generation in the coming years, due to economic and national policy factors. Commenters also expressed concerns about the future reliability and interdependencies of the bulk electric system and the interstate natural gas pipeline system as the amount of natural gas-fired generation increases.

Roundtable participants are encouraged to be prepared to discuss the following:

1. Is there a need for a minimum level of dependability in the fuel supply for gas-fired generators? How would it be defined, who would define it, and what would be the mechanism for accomplishing this? To what extent is the dependability of fuel supply a required specification in standardized contract documents for buying and selling electricity? Should this be addressed regionally, and how can it be addressed in the regions without organized markets? What role can or do State Commissions play in defining or otherwise supporting requirements for fuel dependability in all of the Western subregions?

2. Several commenters express concern about whether there are particular reliability concerns in areas that lack underground natural gas storage. What tools are available to regions to manage gas-fired generation swings and preserve reliability, in areas without gas storage? What happens when there are events that impact pipeline deliverability in those regions?

3. To what extent do the regions in the West coordinate studies of the natural gas and electric systems to analyze forecasted resource mix and/or interdependency risks from curtailments or contingencies? Can this be addressed through existing transmission planning processes or are different processes needed?

4. Commenters from California and the Northwest highlighted ongoing coordination efforts that allowed participants from the natural gas and electric industries, as well as state regulators, to assess emergency response plans and provided a forum to discuss and implement improvements.[13] Are sufficient emergency coordination procedures in place in the West? Are these procedures routinely tested through functional exercises or simulations? Should all regions within the West routinely conduct joint functional exercises?

4:30–5:30 General Discussion of Other Region-Specific Issues Affecting Gas-Electric Coordination

Electric markets in the West function differently in California, the Pacific Northwest and in the rest of the Western Interconnect. To the extent not discussed in the earlier roundtable discussions, we'll discuss these differences as well as any specific issues of concern to one or more of these sub-regions not touched on earlier.

Roundtable Participants:

- Richard Adams, Executive Director, Pacific Northwest Utilities Conference Committee
- Ed Brewer, Vice President, Commercial Operations, Williams—Northwest Pipeline
- Will Brown, Director-Commercial, Kinder Morgan West Region Pipelines
- Tina Burnett, Senior Energy Analyst, The Boeing Corporation (on behalf of Process Gas Consumers Group)
- Stefan Byrd, Senior Vice President Commercial and Trading (on behalf of MidAmerican Energy Holdings Company) (representing the common views of Pacific Corp Energy and Kern River Gas Transmission)
- Jan Caldwell, Manager, Marketing Services, Williams—Northwest Pipeline
- Shelley Corman, Senior Vice President, Commercial & Regulatory, Transwestern Pipeline Company
- John Dagg, Director of Gas Transmission and System Operations, Southern California Gas Company and San Diego Gas & Electric
- Lynn Dahlberg, Director Marketing Services, Williams—Northwest Pipeline
- Curtis Dallinger, Director, Gas Resource Planning, Xcel Energy
- Randy Friedman, Director, Gas Supply, Northwest Natural Gas
- Paul Goldstein, Managing Director, Sempra U.S. Gas & Power
- Roger Graham, Director Wholesale Marketing & Business Development, Pacific Gas & Electric
- Steve Harper, Director Gas Supply, Avista Corp.
- Robert Hayes, Vice President of Physical Trading and Operations, Calpine Corporation
- Tom Haymaker, Slice Manager, Clark Public Utilities
- Lee Hobbs, Senior Vice President, TransCanada US Pipelines
- Skip Horvath, President, Natural Gas Supply Association
- Kevin Johnson, Director, Gas Control, Kinder Morgan Western Pipelines
- Dan Kirschner, Executive Director, Northwest Gas Association
- Ray Miller, Vice President, Pipeline Management, Kinder Morgan Pipelines
- John Moura, Associate Director, Reliability Assessment, NERC
- Liam Noailles, Manager, Market Operations, Xcel Energy
- Kent Price, Senior Marketing Representative, Salt River Project
- Pete Richards, Director, Operations, Gas Control & Measurement, Williams—Northwest Pipeline
- Clay Riding, Director Natural Gas Resources, Puget Sound Energy
- Andrew Soto, Senior Managing Counsel, American Gas Association
- Reuben Tavares, Electric Generation System Specialist, California Energy Commission
- Justin Thompson, Director of Business Support, Arizona Public Service Company
- William Tom, Senior Manager, Day-Ahead Operations, Pacific Gas & Electric
- Gregory Van Pelt, External Affairs Manager, California ISO
- Craig Williams, Market Interface Manager, Western Electricity Coordinating Council

[FR Doc. 2012–20904 Filed 8–24–12; 8:45 am]
BILLING CODE 6717–01–P

[13] *See, e.g.*, Northwest Industrial Gas Users March 30, 2012 Comments at 3; Northwest Gas Association, *et al.* March 29, 2012 Comments at 1.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0699; FRL–9721–6]

First Draft Documents Related to the Review of the National Ambient Air Quality Standards for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: The EPA is announcing an extension of the public comment period for the first draft assessment documents titled, *Health Risk and Exposure Assessment for Ozone, First External Review Draft; Welfare Risk and Exposure Assessment for Ozone, First External Review Draft;* and *Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards: First External Review Draft.* The Agency is extending the comment period by 31 days to provide stakeholders and the public adequate time to conduct appropriate analysis and prepare meaningful comments on these first draft assessment documents. The original comment period was to end on September 11, 2012. The extended comment period will now close on October 12, 2012.

DATES: Comments should be submitted on or before October 12, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0699, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email:* Comments may be sent by electronic mail (email) to *a-and-r-docket@epa.gov*, Attention Docket ID No. EPA–HQ–OAR–2008–0699.
- *Fax:* Fax your comments to 202–566–9744, Attention Docket ID No. EPA–HQ–OAR–2008–0699.
- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2008–0699.
- *Hand Delivery or Courier:* Deliver your comments to: EPA Docket Center, 1301 Constitution Ave. NW., Room 3334, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0699. The 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 Air Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The Docket telephone number is 202–566–1742; fax 202–566–9744.

FOR FURTHER INFORMATION CONTACT: For questions related to the draft document titled, *Health Risk and Exposure Assessment for Ozone, First External Review Draft* (EPA–452/P–12–001; July 2012), please contact Ms. Karen Wesson, Office of Air Quality Planning and Standards (Mail code C504–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; email: *wesson.karen@epa.gov*; telephone: 919–541–3515; fax: 919–541–5315.

For questions related to the draft document titled, *Welfare Risk and Exposure Assessment for Ozone, First External Review Draft* (EPA–452/P–12–004; July 2012), please contact Dr. Travis Smith, Office of Air Quality Planning and Standards (Mail code C539–07), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; email: *smith.jtravis@epa.gov*; telephone: 919–541–2035; fax: 919–541–5315.

For questions related to the draft document titled, *Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards: First External Review Draft* (EPA–452/P–12–002; August 2012), please contact Ms. Susan Lyon Stone, Office of Air Quality Planning and Standards (Mail code C504–06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; email: *stone.susan@epa.gov*; telephone: 919–541–1146; fax: 919–541–0237.

General Information

A. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Make sure to submit your comments by the comment period deadline identified.

SUPPLEMENTARY INFORMATION: Under section 108(a) of the Clean Air Act (CAA), the Administrator identifies and lists certain pollutants which "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." The EPA then issues air quality criteria for these listed pollutants, which are commonly referred to as "criteria pollutants." The air quality criteria are to "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air, in varying quantities." Under section 109 of the CAA, EPA establishes primary (health-based) and secondary (welfare-based) National Ambient Air Quality Standards (NAAQS) for pollutants for which air quality criteria are issued. Section

109(d) of the CAA requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria.[1] A draft of the integrated review plan was released for public review and comment in September 2009 and was the subject of a consultation with the Clean Air Scientific Advisory Committee (CASAC) on November 13, 2009 (74 FR 54562; October 22, 2009).[2] Comments received from that consultation and from the public were considered in finalizing the plan and in beginning the review of the air quality criteria.

As part of EPA's review of the primary and secondary ozone (O_3) NAAQS,[3] the Agency is conducting quantitative assessments characterizing the health and welfare risks associated with exposure to ambient O_3. The EPA's plans for conducting these assessments, including the proposed scope and methods of the analyses, were presented in two planning documents titled, *Ozone National Ambient Air Quality Standards: Scope and Methods Plan for Health Risk and Exposure Assessment and Ozone National Ambient Air Quality Standards: Scope and Methods Plan for Welfare Risk and Exposure Assessment* (henceforth, Scope and Methods Plans).[4] These documents were released for public comment in April 2011, and were the subject of a consultation with the CASAC on May 19–20, 2011 (76 FR 23809; April 28, 2011). In May 2012, a memo titled, *Updates to information presented in the Scope and Methods Plans for the Ozone NAAQS Health and Welfare Risk and Exposure Assessments*, was made available that described changes to elements of the scope and methods plans and provided a brief explanation of each change and the reason for it.

On July 16, 2012 EPA made available the first draft documents *Health Risk and Exposure Assessment for Ozone, First External Review Draft and Welfare Risk and Exposure Assessment for Ozone, First External Review Draft.* At that time, we noted that Chapter 6 of the Health Risk and Exposure Assessment (REA) and quantitative results of ecosystem services modeling in Chapter 6 of the Welfare REA would be made available in a separate submission in August, 2012.

On August 15, EPA made available updates to the first draft Health and Welfare REAs, along with several technical memos and appendices. Updates to the Health REA include Chapter 6 which describes risk analyses based on application of results from human clinical studies, an updated Chapter 9 which incorporates the findings from Chapter 6, and several corrections to other chapters, including corrected table numbers in Chapter 5, and corrected references in several locations. Updates to the Welfare REA include additional analyses described in Chapter 6 which provide estimates of damages from O_3 exposure to ecosystem services related to commercial forests and urban trees, additional discussions in Chapter 7 related to the ecosystem service analyses in the revised Chapter 6, as well as corrections to maps in Chapter 4 and corrected references in several locations.

In addition, on August 15, 2012 EPA made available the first draft document titled *Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards: First External Review Draft.* When final, the Policy Assessment will serve to "bridge the gap" between the scientific information and the judgments required of the Administrator in determining whether it is appropriate to retain or revise the standards. The first draft Policy Assessment builds upon information presented in the *Integrated Science Assessment of Ozone and Related Photochemical Oxidants* (Third draft)[5] and the two draft Risk and Exposure Assessment documents described above. The first draft Policy Assessment may be accessed online through EPA's TTN Web site at *http://www.epa.gov/ttn/naaqs/standards/ozone/s_o3_index.html.*

The EPA is soliciting advice and recommendations from the CASAC by means of a review of these draft documents at an upcoming public meeting of the CASAC that will be held September 11–13, 2012. Information about these public meetings, including the dates and locations, was published in a separate notice in the **Federal Register** (77 FR 46755). The EPA is also soliciting comments from the public on these draft documents. Following the CASAC meeting and the close of the public comment period, EPA will consider comments received from the CASAC and the public in preparing revisions to these documents.

The draft documents briefly described above do not represent and should not be construed to represent any final EPA policy, viewpoint, or determination. The EPA will consider any public comments submitted in response to this notice when revising the documents.

Dated: August 20, 2012.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2012–21034 Filed 8–24–12; 8:45 am]

BILLING CODE 6560–50–P

[1] See *http://www.epa.gov/ttn/naaqs/review.html* for more information on the NAAQS review process.

[2] See *http://yosemite.epa.gov/sab/sabproduct.nsf/WebProjectsbyTopicCASAC!OpenView* for more information on CASAC activities related to the current O_3 NAAQS review.

[3] See *http://www.epa.gov/ttn/naaqs/review.html* for more information on the NAAQS review process.

[4] EPA–452/P–11–001 and –002; April 2011; Available: *http://www.epa.gov/ttn/naaqs/standards/ozone/s_o3_2008_pd.html*

[5] U.S. EPA. Integrated Science Assessment of Ozone and Related Photochemical Oxidants (Third External Review Draft). U.S. Environmental Protection Agency, Washington, DC. EPA/600/R–10/076C, 2012; Available: *http://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=242490#Download.*

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10339, Badger State Bank, Cassville, WI

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Badger State Bank, Cassville, Wisconsin ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Badger State Bank. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Federal Deposit Insurance Corporation.

Dated: August 22, 2012.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–20986 Filed 8–24–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Controlled Carriers Under the Shipping Act of 1984

August 22, 2012.

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Federal Maritime Commission is publishing an updated list of controlled carriers, i.e., ocean common carriers operating in U.S.-foreign trades that are owned or controlled by foreign governments. Such carriers are subject to special regulatory oversight by the Commission under the Shipping Act of 1984.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Fenneman, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission is publishing an updated list of controlled carriers. Section 3(8) of the Shipping Act of 1984 (46 U.S.C. 40102(8)), defines a "controlled carrier" as:

An ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by a government, with ownership or control by a government being deemed to exist for a carrier if—

(A) A majority of the interest in the carrier is owned or controlled in any manner by that government, an agency of that government, or a public or private person controlled by that government; or

(B) That government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

As required by the Shipping Act, controlled carriers are subject to special oversight by the Commission. Section 9(a) of the Shipping Act (46 U.S.C. 40701(b)), states:

The Federal Maritime Commission, at any time after notice and opportunity for a hearing, may prohibit the publication or use of a rate, charge, classification, rule, or regulation that a controlled carrier has failed to demonstrate is just and reasonable.

Congress enacted these protections to ensure that controlled carries, whose marketplace decision-making can be influenced by foreign governmental priorities or by their access to non-market sources of capital, do not engage in unreasonable below-market pricing practices which could disrupt trade or harm privately-owned shipping companies.

The controlled carrier list is not a comprehensive list of foreign-owned or -controlled ships or ship owners; rather, it is only a list of ocean common carriers that are controlled by governments. *See* 46 U.S.C. 40102(8). Thus, tramp operators and other non-common carriers are not included, nor are non-vessel-operating common carriers, regardless of their ownership or control.

Since the last publication of this list on May 10, 2005 (70 FR 24581), the Commission has newly classified one ocean common carrier as a controlled carrier, Hainan P O Shipping Co., Ltd. ("P O Shipping"), and removed four common carriers from the controlled carrier list: Ceylon Shipping Corporation ("Ceylon"); Compagnie Nationale Algerienne de Navigation ("CNAN"); Sinotrans Container Lines Co., Ltd. (d/b/a Sinolines) ("Sinotrans"); and The Shipping Corporation of India Ltd. ("SCI").

Pursuant to 46 CFR 501.23, P O Shipping was classified as a controlled carrier on July 23, 2010.

As part of a general review of common carriers subject to regulation by the Commission, Ceylon was determined to be inactive as of March 20, 2012. *See* 76 FR 70448; FMC Docket No. 11–20 *Publication of Inaccurate or Inactive Ocean Common Carrier Tariffs.*

CNAN has also been removed from the list, as it no longer operates as an ocean common carrier. All CNAN tariffs in U.S.-foreign trades were cancelled effective February 24, 2011.

Sinotrans is being removed from the list, as it no longer operates as an ocean common carrier in the U.S.-foreign trades, although a related company operates as a non-vessel-operating common carriers ("NVOCC") in the U.S.-foreign trades.

SCI is also being removed from the list as it no longer does business in the U.S.-foreign trades. All SCI tariffs in U.S.-foreign trades were cancelled effective February 21, 2011.

China Shipping Container Lines Co., Ltd. and China Shipping Container Lines (Hong Kong) Company, Ltd. are now a single organization (RPI No. 019270).

It is requested that any other information regarding possible omissions or inaccuracies in this list be provided to the Commission's Office of General Counsel. *See* 46 CFR 501.23. The amended list of currently classified controlled carriers and their corresponding Commission-issued Registered Persons Index numbers is set forth below:

(1) American President Lines, Ltd and APL Co., Pte. (RPI No. 000240)—Republic of Singapore;

(2) COSCO Container Lines Company, Limited (RPI No. 015614)—People's Republic of China;

(3) China Shipping Container Lines Co., Ltd and China Shipping Container Lines (Hong Kong) Co., Limited (RPI No. 019270)—People's Republic of China;

(4) Hainan P O Shipping Co., Ltd. (RPI No. 022860)—People's Republic of China.

Karen V. Gregory,

Secretary.

[FR Doc. 2012–21009 Filed 8–24–12; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 101 0079]

Cooperativa de Farmacias Puertorriquenas; Analysis of Agreement Containing Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 20, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Coopharma, File No. 101 0079" on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/coopharmaconsentument*, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Randall Marks (202–326–2571), FTC,

Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 21, 2012), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 20, 2012. Write "Coopharma, File No. 101 0079" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm*. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/coopharmaconsentument* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write "Coopharma, File No. 101 0079" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 20, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Cooperativa de Farmacias Puertorriqueñas ("Coopharma" or "Respondent"). The agreement settles charges that Coopharma violated Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by negotiating, entering into, and implementing agreements among its member pharmacy owners to fix the prices on which they contract with third-party payers in Puerto Rico.

The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed consent order final.

The purpose of this analysis is to facilitate public comment on the proposed consent order. The analysis is not intended to constitute an official interpretation of the agreement and proposed consent order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by Respondent that it violated the law or that the facts alleged in the proposed complaint (other than jurisdictional facts) are true.

The Proposed Complaint

Coopharma is a not-for-profit corporation organized and doing business as a cooperative under the laws of Puerto Rico. Coopharma consists of approximately 300 pharmacy owners who own roughly 360 community pharmacies in Puerto Rico. Coopharma members control at least a third of the pharmacies in Puerto Rico and the organization has a particularly strong presence on the western side of the main island.

Coopharma was established with the principal purpose of negotiating on behalf of its members and entering into single-signature "master contracts" with payers that bind all Coopharma pharmacies. The proposed complaint alleges that Coopharma members negotiated collectively through Coopharma to obtain higher reimbursement rates than its members were receiving in their individual contracts with payers, including pharmacy benefits managers and insurers.

The proposed complaint alleges that Coopharma's member pharmacies restrained competition by jointly negotiating and entering into agreements with third-party payers.

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Coopharma achieved this result by encouraging its members: (1) To refuse to deal with third-party payers except through Coopharma; and (2) to threaten termination, or actually terminate, contracts with payers that refused to deal with Coopharma on the terms it demanded.

Coopharma collectively negotiated reimbursement rates with more than ten payers and has reached agreements on behalf of its members with seven of them. The mere threat of Coopharma members' collective action led two additional payers to pay higher rates. The proposed complaint alleges that Coopharma's actions caused payers to pay higher reimbursement rates to Coopharma members, and that this price increase ultimately may be passed along to consumers in the form of higher premium payments, diminished service, or reduced coverage. As a result, Coopharma's actions caused substantial harm to the consumers of Puerto Rico. Coopharma's conduct was unrelated to any efficiency-enhancing integration among its members.

Negotiations With CVS-Caremark

As a specific example of Coopharma's misconduct, the proposed complaint alleges that CVS-Caremark ("Caremark"), a pharmacy benefits manager operating in Puerto Rico, was forced to rescind a rate cut and to enter into a master contract at a higher rate because of the collective action of Coopharma members.

In 2008, Caremark notified pharmacies throughout the country that it was reducing reimbursement on its Medicare Part D contracts. Coopharma mobilized its members to collectively resist that rate change. Coopharma provided its members with a form letter, which many sent, rejecting the new Medicare Part D contracts and telling Caremark to negotiate rates through Coopharma. Coopharma then informed Caremark that its members would not accept Caremark's reimbursement offer and demanded higher rates. Coopharma also informed certain Caremark clients that Caremark was threatening to terminate pharmacies that did not accept Caremark's rate change. This pressure led Caremark to rescind the Part D rate change for the pharmacies that sent letters rejecting the change.

Coopharma continued to pressure Caremark to enter into a master contract on all lines of business, including Medicare Part D. Coopharma used the same basic tactics to accomplish this goal, by: (1) Demanding that Caremark negotiate exclusively through Coopharma; (2) threatening that its members would terminate their Caremark contracts; and (3) contacting Caremark's clients. Indeed, Coopharma took the matter public by placing a newspaper advertisement stating that negotiations with Caremark had failed and that, as of May 28, 2009, "we will not continue providing services" to Caremark patients.

In August 2009, Caremark agreed to replace Coopharma's members' individual contracts with a master contract with Coopharma. The proposed complaint alleges that Caremark's price concessions cost it approximately $640,000 in 2009 alone.

Other Coercive Conduct

In addition, the proposed complaint alleges that in at least two instances, the mere threat of collective terminations benefitted individual Coopharma pharmacies at a cost of millions of dollars to third-party payers. Coopharma pharmacies obtained higher reimbursement rates from third-party payers Medco and Medicare Mucho Mas even though negotiations with Coopharma did not result in a master contract. During its negotiations with Medco, Coopharma threatened to pull all Coopharma pharmacies out of Medco's network. In an attempt to prevent such a disruption of its network, Medco raised the reimbursement rates it paid to individual Coopharma pharmacies, a concession that cost Medco and its clients over $2 million between 2007 and 2011. Medicare Mucho Mas, a large Medicare Advantage payer, also feared that Coopharma could cause a similar disruption in its pharmacy network. As a result, Medicare Mucho Mas' pharmacy benefits manager offered a higher reimbursement rate to Coopharma pharmacies.

Finally, the proposed complaint alleges that Coopharma attempted to use collective action to resist a reimbursement rate reduction by health insurer Humana. Coopharma attempted to coerce Humana into maintaining its reimbursement rates by threatening termination of the individual contracts and pressuring it into entering into a master contract. When Humana asserted that Coopharma lacked the legal authority to terminate its members' contracts, Coopharma encouraged its members to terminate their contracts individually.

Coopharma Cannot Qualify for State Action Immunity

The proposed complaint alleges that Coopharma's anticompetitive conduct cannot be shielded by the state action doctrine. The state action doctrine provides that states are not subject to federal antitrust liability, and that by extension certain subordinate state entities and private parties exercising state-granted powers may be immunized as well.[2] Private parties claiming the protection of this immunity must meet two elements. First, private parties must demonstrate that the challenged conduct was undertaken pursuant to a clearly articulated state policy to displace competition with regulation. Second, private parties must show that the challenged conduct has been actively supervised by the state.[3] The proposed complaint alleges that neither requirement is satisfied here.

Puerto Rico has not clearly articulated a policy to replace competition with the challenged conduct. Law 203 regulates "collective bargaining" between providers of health care services, including pharmacies, on the one hand, and payers, on the other.[4] However, Law 203 limits collective bargaining to situations where the providers obtain a certificate verifying that they constitute less than 20 percent of providers in a particular area, do not engage in boycotts, submit to mandatory arbitration in the case of an impasse, and comply with certain other requirements.[5] Coopharma has not—and cannot—satisfy these requirements.[6]

The proposed complaint also alleges that Puerto Rico has not actively supervised Coopharma's conduct because no Puerto Rican official has exercised the power to review, approve, or disapprove either the rates in Coopharma's contracts with payers or the coercive collective action it used to obtain them.[7] Under Law 203, Coopharma has neither sought to comply with nor satisfied any of the law's requirements. Even under Law 239, the Puerto Rico agency charged with the general regulation of cooperatives, the Corporacion para la Supervision y Seguro de Cooperativas

[2] See, *e.g.*, *Parker* v. *Brown*, 317 U.S. 341 (1943).

[3] *California Retail Liquor Dealers Ass'n* v. *Midcal Aluminum, Inc.*, 445 U.S. 97, 105 (1980).

[4] 26 L.P.R.A. § 3101, *et seq.*

[5] *E.g.*, 26 L.P.R.A. §§ 31.040; 31.050; 31.060.

[6] The Commission is aware that Law 239, which regulates cooperatives generally, declared that cooperatives "shall not be considered conspiracies or cartels to restrict business." 5 L.P.R.A. § 4516 (Law 239, § 20.5). The Commission and the Puerto Rico Department of Justice interpret Law 203 (which was passed after Law 239) to supersede Law 239. At the very least, Law 203 imposes additional requirements on health care cooperatives, which Coopharma cannot meet.

[7] *Cf. Patrick* v. *Burget*, 486 U.S. 94, 101 (1988) ("The active supervision prong of the *Midcal* test requires that state officials have and exercise power to review particular anticompetitive acts of private parties and disapprove those that fail to accord with state policy.").

de Puerto Rico ("COSSEC"), has no process in place for reviewing cooperatives' negotiations with payers or for approving or disapproving prices and other terms that result from such negotiations.

The Proposed Consent Order

The proposed consent order is designed to prevent the continuance and recurrence of the illegal conduct alleged in the proposed complaint, while allowing Coopharma to engage in legitimate joint conduct.

Paragraph II prevents Coopharma from continuing the challenged conduct. Paragraph II.A prohibits Respondent from entering into or facilitating agreements between or among any pharmacies: (1) To negotiate on behalf of any pharmacy with any payer; (2) to refuse to deal or threaten to refuse to deal with any payer; (3) to include any term, condition, or requirement upon which any pharmacy deals, or is willing to deal, with any payer, but not limited to, price terms; or (4) not to deal individually with any payer, or not to deal with any payer other than through Respondent.

The other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits Respondent from facilitating exchanges of information between pharmacies concerning whether, and on what terms, to contract with a payer. Paragraph II.C bars attempts to engage in any action prohibited by Paragraph II.A or II.B, and Paragraph II.D proscribes encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A through II.C.

Paragraph III is designed to prevent the challenged conduct from reoccurring. Paragraph III.A requires Coopharma to send a copy of the complaint and consent order to its members, its management and staff, and any payers with whom Coopharma has contracted at any time since January 1, 2008. Paragraph III.B allows for contract termination if a payer voluntarily submits a request to Coopharma to terminate its contract. Pursuant to such a request, Paragraph III.B requires Coopharma to terminate, without penalty, any pre-existing payer contracts. Upon receiving such request, Paragraph III.C requires that Coopharma notify in writing each pharmacy that provides services through that contract to be terminated. Paragraph III.D requires Coopharma, for three years, to distribute a copy of the complaint and consent order to new members, officers, directors, and employees, and to payers who begin contracting with Coopharma and to post them on its Web site.

Paragraphs IV, V, and VI impose various obligations on Coopharma to report or to provide access to information to the Commission to facilitate its compliance with the consent order. Finally, Paragraph VII provides that the proposed consent order will expire 20 years from the date it is issued.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–20955 Filed 8–24–12; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0026; Docket 2012–0076; Sequence 18]

Federal Acquisition Regulation; Information Collection; Change Order Accounting

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

ACTION: Notice of request for public comments regarding an extension 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 change order accounting.

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.

DATES: Submit comments on or before October 26, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0026, Change Order Accounting by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000–0026, Change Order Accounting" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information 9000–0026, Change Order Accounting". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0026, Change Order Accounting" on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0026, Change Order Accounting.

Instructions: Please submit comments only and cite Information Collection 9000–0026, Change Order Accounting, 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. Michael O. Jackson, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 208–4949, or email at *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 43.205 allows a contracting officer, whenever the estimated cost of a change or series of related changes under a contract exceeds $100,000, to assert the right in the clause at FAR 52.243–6, Change Order Accounting, to require the contractor to maintain separate accounts for each change or series of related changes. Each account shall record all incurred segregable, direct costs (less allocable credits) of work, changed and unchanged, allocable to the change. These accounts are to be maintained until the parties agree to an equitable adjustment for the changes or until the matter is conclusively disposed of under the Disputes clause. This requirement is necessary in order to be able to account properly for costs associated with

changes in supply and research and development contracts that are technically complex and incur numerous changes.

B. Annual Reporting Burden

The estimated annual reporting burden has decreased from what was published in the **Federal Register** at 74 FR 18718, on April 24, 2009. The estimated number of respondents has decreased from 8,750 to 200, based on information received from Government organizations most likely to use change order accounting. In addition, the reduction in the number of respondents is made possible because of the improvement in Generally Accepted Accounting Principles (GAAP), the use of FAR cost principles (FAR subpart 31.2), and expanded use of Cost Accounting Standards (CAS). These procedures, in most cases, enable the Government to account for the cost of changes without having to resort to change order accounting. The responses per respondent decreased from 18 to 12, based on an estimated monthly submission to the Government, or 12 times a year. The estimated hours per response time of .084 increased to .5, or 30 minutes. This change is based on a reassessment of the estimated time required to gather and report the accounting information in the format specific to this information collection.

Respondents: 200.

Responses per Respondent: 12.

Annual Responses: 2,400.

Hours per Response: 0.5.

Total Burden Hours: 1,200.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0026, Change Order Accounting, in all correspondence. ,

Dated: August 14, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–20742 Filed 8–24–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; Announcement of Requirements and Registration for Reducing Cancer Among Women of Color Challenge

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

Award Approving Official: Farzad Mostashari, National Coordinator for Health Information Technology.

ACTION: Notice.

SUMMARY: Disparities in prevention, early treatment, and final outcomes exist across the spectrum of cancer types and are often amplified in women's health when we look at breast cancer and gynecologic cancers—primarily cervical, uterine, and ovarian cancer. With over 300,000 new cases combined and 68,000 deaths annually, the impact that these cancers have on the United States cannot be overstated. While the incidence and prevalence of these malignancies is as socially and geographically diverse as our nation, they strike minority and underserved women with a disproportionate lethality caused by many factors.

In particular, the prevention strategies for these cancers cross the gambit of social and technical modalities from radiology (e.g., mammography) to advanced immunotherapy and vaccination (e.g., HPV vaccine). The clinical communities that treat and care for these patients is, likewise, among the broadest group of clinical disciplines that can be aggregated—from primary care and the surgical specialties to some of the most cutting-edge radiation oncology and medical oncology groups. But more importantly, any failure of our healthcare system to adequately prevent one of these cancers is most often a failure to address a myriad of social challenges, from education and access to health literacy and community support.

The "Reducing Cancer Among Women of Color Challenge" is a call to developers to create a mobile device-optimized tool that engages and empowers women to improve the prevention and treatment of breast, cervical, uterine, and ovarian cancer in underserved and minority communities and interfaces with provider electronic health records (EHRs).

The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358).

DATES: Effective on August 23, 2012. Challenge submission period ends February 5, 2013, 11:59 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Adam Wong, 202–720–2866.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

This challenge is a multidisciplinary call to innovators and developers to create a mobile device-optimized tool that engages and empowers women to improve the prevention and treatment of breast, cervical, uterine, and ovarian cancer in underserved and minority communities and interfaces with provider electronic health records (EHRs). The tool will achieve the following:

- Provide general information regarding preventive and screening services for breast and gynecologic cancers—including, but not limited to, benefits, timing, scheduling, and location.
- Allow for the interface with patient health records or provider-sponsored patient portals to provide specific reminders and trigger electronic health record-based clinical decision support regarding the timing of preventive services.
- Support the storage, viewing, and exchange of complex patient care plans. In particular, the tool will help strengthen communication among provider care teams, possibly spread out across large geographic locations, to afford optimal remote follow-up (e.g., be able to send patient information to electronic health records via *Direct*).
- Support patient engagement and care giver support to help patients and/or their caregivers keep track of complex care plans, such as connections to community health workers, promotores de salud, or patient navigators.
- Be optimized for use on mobile devices.

Eligibility Rules for Participating in the Competition

To be eligible to win a prize under this challenge, an individual or entity—

(1) Shall have registered to participate in the competition under the rules promulgated by the Office of the National Coordinator for Health Information Technology

(2) Shall have complied with all the requirements under this section.

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States.

(4) May not be a Federal entity or Federal employee acting within the scope of their employment.

(5) Shall not be an HHS employee working on their applications or submissions during assigned duty hours.

(6) Shall not be an employee of Office of the National Coordinator for Health IT.

(7) Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award.

(8) Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Entrants must agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from my participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise.

Entrants must also agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities.

Registration Process for Participants

To register for this challenge participants should either:

- Access the *www.challenge.gov* Web site and search for the "Reducing Cancer Among Women of Color Challenge".
- Access the ONC Investing in Innovation (i2) Challenge Web site at:
  http://www.health2con.com/devchallenge/challenges/onc-i2-challenges/
  A registration link for the challenge can be found on the landing page under the challenge description

Amount of the Prize

- First Prize: $85,000
- Second Prize: $10,000
- Third Prize: $5,000

Awards may be subject to Federal income taxes and HHS will comply with IRS withholding and reporting requirements, where applicable.

Payment of the Prize

Prize will be paid by contractor.

Basis Upon Which Winner Will Be Selected

The review panel will make selections based upon the following criteria:

- Patient engagement
- Quality and accessibility of information
- Targeted and actionable information
- Links to online communities and/or social media
- Innovativeness and usability
- Non-English language availability

In order for an entry to be eligible to win this Challenge, it must meet the following requirements:

1. *General*—Contestants must provide continuous access to the app, a detailed description of the app, instructions on how to install and operate the app, and system requirements required to run the app (collectively, "Submission").

2. *No HHS or ONC logo*—The app must not use HHS' or ONC's logo or official seal in the Submission, and must not claim endorsement.

3. *Section 508 Compliance*—Contestants must acknowledge that they understand that, as a pre-requisite to any subsequent acquisition by FAR contract or other method, they may be required to make their proposed solution compliant with Section 508 accessibility and usability requirements at their own expense. Any electronic information technology that is ultimately obtained by HHS for its use, development, or maintenance must meet Section 508 accessibility and usability standards. Past experience has demonstrated that it can be costly for solution-providers to "retrofit" solutions if remediation is later needed. The HHS Section 508 Evaluation Product Assessment Template, available at *http://www.hhs.gov/od/vendors/index.html*, provides a useful roadmap for developers to review. It is a simple, web-based checklist utilized by HHS officials to allow vendors to document how their products do or do not meet the various Section 508 requirements.

4. *Functionality/Accuracy*—A Submission may be disqualified if the application fails to function as expressed in the description provided by the user, or if the application provides inaccurate or incomplete information.

5. *Security*—Submissions must be free of malware. Contestant agrees that the ONC may conduct testing on the app to determine whether malware or other security threats may be present. ONC may disqualify the app if, in ONC's judgment, the app may damage government or others' equipment or operating environment.

Additional Information

Ownership of intellectual property is determined by the following:

- Each entrant retains title and full ownership in and to their submission. Entrants expressly reserve all intellectual property rights not expressly granted under the challenge agreement.
- By participating in the challenge, each entrant hereby irrevocably grants to Sponsor and Administrator a limited, non-exclusive, royalty free, worldwide, license and right to reproduce, publically perform, publically display, and use the Submission to the extent necessary to administer the challenge, and to publically perform and publically display the Submission, including, without limitation, for advertising and promotional purposes relating to the challenge.

Authority: 15 U.S.C. 3719.

Dated: August 20, 2012.

Farzad Mostashari,

National Coordinator for Health Information Technology.

[FR Doc. 2012–21023 Filed 8–24–12; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day-12–12LA]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Evaluation of the Communities Putting Prevention to Work (CPPW) National Prevention Media Initiative—New—National Center for Chronic

Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The American Recovery and Reinvestment Act of 2009 (ARRA) allotted $650 million to the Department of Health and Human Services (HHS) to support evidence-based prevention and wellness strategies. The cornerstone of the initiative is the Communities Putting Prevention to Work (CPPW) Community Program, administered by the Centers for Disease Control and Prevention (CDC). In March 2010, HHS made 44 CPPW awards for community-based obesity and tobacco preventions efforts, followed in September 2010 by additional awards made possible by Affordable Care Act (ACA) funding. Between the two funding sources, there are 50 communities that are part of CPPW: 28 are funded only for obesity-related initiatives; 11 are funded for both obesity and tobacco initiatives; and 11 are funded only for tobacco-related initiatives.

CPPW program efforts are supported by a National Prevention Media Initiative. Although originally planned as a national campaign, CDC determined that the best support for the CPPW communities would be to shift to a localized approach. CDC plans to conduct two cycles of information collection in the 39 target communities that are addressing obesity: the first in Fall 2012 and the second in Winter/Spring 2013. The target is 6,000 completed responses for each cycle of data collection. A separate sample will be drawn for each of the 39 communities. All information will be collected through brief telephone interviews with adults aged 25 years or older. The insights to be gained from this information collection will be valuable to assessing the impact of CPPW-related program activities. The information will specifically be used to assess aided and unaided awareness of CPPW media efforts, beliefs and attitudes about obesity, and behaviors that encourage active eating and healthy living. Results will be used to inform the design and delivery of future media campaigns.

OMB approval is requested for one year. The estimated burden per response is one minute or less for eligibility screening, five minutes for an incomplete telephone interview, and 10 minutes for a complete telephone interview. Participation in the telephone interviews is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden hours are 2,406.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
Adult General Public ≥25 years of age	Screener for the Community Telephone Interview.	22,400	1	1/60
	Community Telephone Interview (incomplete)	400	1	5/60
	Community Telephone Interview (complete)	12,000	1	10/60

Dated: August 21, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–21033 Filed 8–24–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day-12–0571]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Minimum Data Elements (MDEs) for the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) (OMB No. 0920–0571, exp. 11/30/2012)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Many cancer-related deaths in women could be avoided by increased utilization of appropriate screening and early detection tests for breast and cervical cancer. Mammography is extremely valuable as an early detection tool because it can detect breast cancer well before the woman can feel the lump, when the cancer is still in an early and more treatable stage. Similarly, a substantial proportion of cervical cancer-related deaths could be prevented through the detection and treatment of precancerous lesions. The Papanicolaou (Pap) test is the primary method of detecting both precancerous cervical lesions as well as invasive cervical cancer. Mammography and Pap tests are underused by women who have no source or no regular source of health care and women without health insurance.

The CDC's National Breast and Cervical Cancer Early Detection Program (NBCCEDP) provides screening services to underserved women through cooperative agreements with 50 States, the District of Columbia, 5 U.S. Territories, and 11 American Indian/Alaska Native tribal programs. The program was established in response to the Breast and Cervical Cancer Mortality Prevention Act of 1990. Screening services include clinical breast examinations, mammograms and Pap tests, as well as timely and adequate diagnostic testing for abnormal results, and referrals to treatment for cancers detected. NBCCEDP awardees collect patient-level screening and tracking data to manage the program and clinical services. A de-identified subset of data on patient demographics, screening tests and outcomes are reported by each awardee to CDC twice per year.

CDC is requesting OMB approval to collect MDE information for an additional three years. CDC anticipates a reduction in the overall burden estimate due to a decrease in the number of awardees from 68 to 67.

There are no changes to the currently approved minimum data elements, electronic data collection procedures, or the estimated burden per response. Because NBCCEDP awardees already collect and aggregate data at the state, territory and tribal level, the additional burden of submitting data to CDC will be modest. CDC will use the information to monitor and evaluate NBCCEDP awardees; improve the availability and quality of screening and diagnostic services for underserved women; develop outreach strategies for women who are never or rarely screened for breast and cervical cancer, and report program results to Congress and other legislative authorities.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 536.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
NBCCEDP Awardees	Minimum Data Elements	67	2	4

Dated: August 21, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science, Office of the Directors, Centers for Disease Control and Prevention.

[FR Doc. 2012–21030 Filed 8–24–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day-12–0824]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

BioSense 2.0 Recruitment of Data Sources (OMB No. 920–0824, exp. 10/31/2012)—Revision—Office of Surveillance, Epidemiology, and Laboratory Services (OSELS), Public Health Surveillance and Informatics Program Office (PHSIPO) {Proposed} Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The BioSense Program was created by congressional mandate as part of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, and it was launched by the Centers for Disease Control and Prevention (CDC) in 2003. BioSense is a near real-time surveillance system that receives and processes electronic healthcare encounter data from participating public health jurisdictions' non-federal hospital emergency departments and inpatient facilities in addition to all United States Department of Defense (DoD) and Veterans Affairs (VA) outpatient hospitals and clinics nationwide. The BioSense Program also receives pharmacy data from a private sector health information exchange firm and laboratory data from two national-level private sector clinical laboratories.

The BioSense Program is in the process of transitioning from the original BioSense application to the BioSense 2.0 application that has new governance, a new organizational structure, and a new process for data submission and management. The Association of State and Territorial Health Officials (ASTHO) has been funded through a cooperative agreement with CDC's Division of Notifiable Disease and Healthcare Information (DNDHI) within the Public Health Surveillance and Informatics Program Office (PHSIPO) of the Office of Surveillance, Epidemiology, and Laboratory Services (OSELS) to facilitate the governance of BioSense 2.0, and through a contract with a vendor, ASTHO will offer access and use of BioSense 2.0 on a voluntary basis to state, local, and territorial public health jurisdictions.

All data collected by BioSense 2.0 will reside in a cloud-enabled, Web-based platform that sits in the secure, private Government Cloud and is in compliance with the Federal Information Security Management Act. The platform will provide users with an exclusive secure space as well as tools for posting, receiving, controlling, analyzing, and sharing their public health surveillance information with other public health jurisdictions, CDC, or other public health partners. The public health jurisdiction will retain ownership of any data it contributes to its exclusive secure space within BioSense 2.0.

CDC has agreements with VA, DoD, two national-level private sector clinical laboratories, and a private sector health information exchange firm to provide healthcare encounter data to CDC's exclusive secure space for the purpose of national public health situation awareness and syndromic surveillance. These organizations automatically chose to share with CDC when they were recruited to submit data to the BioSense 2.0 cloud environment. Because they are not required to choose sharing permissions, collecting already existing healthcare encounter data submitted via electronic record transmission from them entails no burden hours.

Whenever possible, the BioSense Program plans to share aggregate-level pharmacy and laboratory data with public health jurisdictions in the shared space. To participate in the shared space, jurisdiction administrators must simply select from drop-down lists to choose their sharing permissions on the BioSense 2.0 application, and they will have the right at any time to revise the level of sharing permissions regarding the data in their secure space.

In order to continue meeting the congressional mandate in the BioSense 2.0 application BioSense Program maintains 3 different types of information collection: (1) contact information (name, telephone number, email address, and street address) needed for recruitment of participating public health jurisdictions to BioSense 2.0 each year; (2) one-time collection of information (name, email address, title, organizational affiliation, security questions, and password) to provide access to the BioSense 2.0 cloud and its

tools for all appropriate users in participating jurisdictions and organizations, and (3) collection of already existing healthcare encounter data submitted to the cloud via electronic record transmission from participating public health jurisdictions' non-federal hospitals, VA, DoD, two national-level private sector clinical laboratories, and a private sector health information exchange firm. Though a large number of electronic records are transmitted from each entity each year, once the automated interfaces are set up for transmission (choosing sharing permissions), there is no human burden for record transmission.

Recruitment is estimated at 1 hour per respondent. This encompasses the unstructured conversation between the contractor and the respondent. Estimated annualized burden hours for public health jurisdictions, federal government, and private sector are 20, 2, and 3 hours respectively. The public health jurisdiction number is an average divided over three years. We expect it to be highest for the first year then decrease in subsequent years with an estimated total of 60 jurisdictions over 3 years.

Applying for access to the BioSense 2.0 application is estimated at 5/60th of an hour per respondent. This involves a onetime completion of an online questionnaire. Estimated annualized burden hours for public health jurisdictions, federal government, and private sector are 17, 3, and 4 hours respectively.

Data collection (administering sharing permissions) is estimated at 5/60th of an hour per respondent. This activity entails accessing a submenu of the BioSense 2.0 cloud-enabled, Web-based platform and choosing with whom to share data and at what level of aggregation from a series of drop-down lists. Estimated annualized burden hours for public health jurisdictions is 2 hours.

VA, DoD, the two national clinical laboratory corporations, and the private sector health information exchange company (federal government and private sector) automatically chose to share with CDC when they were recruited to submit data to the BioSense 2.0 cloud environment. This entails 0 annualized burden hours per respondent, because the data is shared directly with the CDC BioSense Program.

This request is for a 3-year approval. There are no costs to survey respondents other than their time to participate. The estimated total annualized burden hours for this data collection is 51 hours.

ESTIMATES OF ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Recruitment			
State, Local, and Territorial Public Health Jurisdictions	20	1	1
Federal Government	2	1	1
Private Sector (national clinical laboratory corporations, and a private sector health information exchange company)	3	1	1
Access to BioSense 2.0 Application			
State, Local, and Territorial Public Health Jurisdictions	200	1	5/60
Federal Government	30	1	5/60
Private Sector	50	1	5/60
Data Collection: Administrator Sharing Permissions			
State, Local, and Territorial Public Health Jurisdictions	20	1	5/60
Federal Government	2	0	0
Private Sector (national clinical laboratory corporations, and a private sector health information exchange company)	3	0	0

Dated: August 21, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–21024 Filed 8–24–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day-12–0822]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National Intimate Partner and Sexual Violence Survey (OMB No. 0920–0822, exp. 09/30/2012)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The health burden of Intimate Partner Violence (IPV), Sexual Violence (SV) and stalking are substantial. To address

this important public health problem, in 2010, CDC implemented the National Intimate Partner and Sexual Violence Survey (NISVS) which produces national and state level estimates of IPV, SV and stalking on an annual basis.

NISVS uses a dual-frame sampling strategy that includes both landline and cell phone. In 2010, approximately 45.2% of interviews were conducted by landline telephone and 54.8% of interviews were conducted using respondent's cell phone. The overall weighted response rate for 2010 data collection was 27.5%. The weighted cooperation rate was 81.3%. The cooperation rate reflects the proportion who agreed to participate in the interview among those who were contacted and determined eligible. The cooperation rate obtained for 2010 data collection suggests that, once contact was made and eligibility was determined, the majority of respondents chose to participate in the interview.

In the first year of data collection, NISVS data indicated that approximately 6.9 million women and 5.6 million men experienced rape, physical violence and/or stalking by an intimate partner within the last year. NISVS data also suggested that 18.3% of women and 1.4% of men in the U.S. experienced rape in their lifetime. In addition, 44.5% of women and 22.2% of men experienced sexual violence other than rape during their lifetime. Approximately 5 million women and 1.4 million men in the United States were stalked in the 12 months prior to the survey.

There are also overlaps between stalking and other forms of violence experienced in intimate relationships; approximately 14% of females who were stalked by an intimate partner in their lifetime also experienced physical violence. Approximately 12% of female victims experienced rape, physical violence and stalking by a current or former intimate partner in their lifetime. Furthermore, 76% of female victims of intimate partner homicides were stalked by their partners before they were killed.

The lifetime impact of these types of violence on victims is extensive. Nearly 1 in 3 women and 1 in 10 men in the United States have experienced rape, physical violence and/or stalking by an intimate partner and reported at least one impact related to experiencing these or other forms of violent behavior within the relationship (e.g., fear, concern for safety, post-traumatic stress disorder (PTSD) symptom, injury, crisis hotline consult, at least one day of work or school missed, and needs for health care, housing, victim advocate, and legal services.)

CDC proposes to continue collecting national data that will provide more detailed and timely information on intimate partner violence, sexual violence and stalking victimization in the U.S. The proposed revision to the National Intimate Partner and Sexual Violence Survey (NISVS) involves no longer collecting data on special sub-populations (i.e. military, American Indian/Alaskan Native, elderly) and thus focusing the scope of data collection to the general population. The overarching purpose of the information collected has not changed.

A total of 73,318 eligible households will be screened annually; out of the households screened, approximately 58,318 will not consent or agree to participate and 15,000 will complete the survey each year. The survey will be conducted among English and/or Spanish speaking male and female adults (18 years and older) living in the United States.

There are no costs to respondents other than their time.

The total estimated annual burden hours are 9,916.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of responses	Number of responses per respondent	Average burden per response (in hours)
Households	Screened	73,318	1	3/60
	Surveyed	15,000	1	25/60

Dated: August 21, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science, Office of the Directors, Centers for Disease Control and Prevention.

[FR Doc. 2012–21022 Filed 8–24–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Times and Dates

8 a.m.–5 p.m., October 16, 2012 (Closed).

8 a.m.–5 p.m., October 17, 2012 (Closed).

Place: Embassy Suites, 1900 Diagonal Road, Alexandria, Virginia 22314, Telephone: (703) 684–5900, Fax: (703) 684–0653.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Purpose: The Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's standard grants review and funding cycles pertaining to research issues in occupational safety and health, and allied areas.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals. This will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects, which will lead to improvements in the delivery of occupational safety and health services, and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters To Be Discussed: The meeting will convene to address matters related to the conduct of Study Section business and for the study section to

consider safety and occupational health-related grant applications.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Price Connor, Ph.D., Health Scientist, NIOSH, CDC, 1600 Clifton Road N.E., Mailstop E–20, Atlanta, Georgia 30333, Telephone: (404) 498–2511, Fax: (404) 498–2571.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 16, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–21013 Filed 8–24–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Emergency Contingency Fund for Temporary Assistance for Needy Families (TANF) Programs OFA–100.

OMB No.: 0970–0366.

Description

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act), which establishes the Emergency Contingency Fund for State TANF Programs (Emergency Fund) as section 403(c) of the Social Security Act (the Act). This legislation provides up to $5 billion to help States, Territories, and Tribes in fiscal year (FY) 2009 and FY 2010 that have an increase in assistance caseloads and basic assistance expenditures, or in expenditures related to short-term benefits or subsidized employment. The Recovery Act made additional changes to TANF extending supplemental grants through FY 2010, expanding flexibility in the use of TANF funds carried over from one fiscal year to the next, and adding a hold-harmless provision to the caseload reduction credit for States and Territories serving more TANF families.

The Emergency Fund is intended to build upon and renew the principles of work and responsibility that underlie successful welfare reform initiatives. The Emergency Fund provides resources to States, Territories, and Tribes to support work and families during this difficult economic period.

On July 20, 2009 we issued a Program Instruction accompanied by the Emergency Fund Request Form (OFA–100), and instructions for jurisdictions to complete the OFA–100 to apply for emergency funds.

Failure to collect this data would compromise ACF's ability to monitor caseload and expenditure data that must increase in order for jurisdictions to receive awards under the Emergency Fund.

Documentation maintenance on financial reporting for the Emergency Fund is governed by 45 CFR 92.20 and 45 CFR 92.42.

ACF is planning to extend the information collection with the adjustment to the Estimated Annual Burden shown in the table below. Based on our projections for a lower Estimated Annual Burden, we have revised the Number of Respondents to 6 from its previous number of 93 and the Number of Responses per Respondent to 3 from its previous number of 5. Because the Number of Respondents and the Number of Responses per Respondents have been revised, the Estimated Total Burden Hours is now 432, down from its previous number of 11,160.

Respondents

State, Territory, and Tribal agencies administering the Temporary Assistance for Needy Families (TANF) Program that are applying for the Emergency Fund.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF Emergency Fund Request Form, OFA–100	6	5	24	432

Estimated Total Annual Burden Hours: 432.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.*

Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–21001 Filed 8–24–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0881]

Draft Guidance for Industry on Self-Identification of Generic Drug Facilities, Sites, and Organizations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Self-Identification of Generic Drug Facilities, Sites, and

Organizations." On July 9, 2012, the Generic Drug User Fee Amendments of 2012 (GDUFA) (Pub. L. 112–144, Title III) was signed into law by the President. GDUFA, designed to speed the delivery of safe and effective generic drugs to the public and reduce costs to industry, requires that generic drug facilities, sites, and organizations around the world provide identification information annually to FDA. This guidance is intended to assist industry as it prepares to meet the self-identification requirement. It explains who is required to self-identify, what information must be requested, how the information should be submitted to FDA, and what the penalty is for failure to self-identify.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments concerning the proposed collection of information by October 26, 2012. Submit either electronic or written comments on the draft guidance by October 26, 2012.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jaewon Hong, Center for Drug Evaluation and Research (HFD–300), Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 1–866–405–5367 or 301–796–6707.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, the Generic Drug User Fee Amendments of 2012 (GDUFA) (Pub. L. 112–144, Title III) was signed into law by the President. GDUFA is designed to speed the delivery of safe and effective generic drugs to the public and reduce costs to industry. GDUFA enables FDA to assess user fees to fund critical and measurable enhancements to FDA's generic drugs program. GDUFA will also significantly improve global supply chain transparency by requiring owners of facilities producing generic drug products and active pharmaceutical ingredients (API) and certain other sites and organizations that support the manufacture or approval of these products to electronically self-identify with FDA and update that information annually.

Self-identification is required for two purposes. First, it is necessary to determine the universe of facilities required to pay user fees. Once the self-identification process has been completed, FDA will determine the fees and publish the amounts in the **Federal Register**. Second, self-identification is a central component of an effort to promote global supply chain transparency. The information provided through self-identification will enable quick, accurate, and reliable surveillance of generic drugs and facilitate inspections and compliance.

This guidance is intended to assist human generic drug facilities, sites, and organizations by describing how FDA will implement the self-identification requirement contained in GDUFA. As required by GDUFA, in the coming weeks FDA will issue a self-identification requirement notice in the **Federal Register**. The notice will explain that human generic drug facilities, sites, and organizations are required to submit identification information electronically to FDA within 60 days. The notice will also list the self-identification information that must be submitted. FDA is issuing this guidance to assist industry as it prepares to meet the self-identification requirement. The guidance explains who is required to self-identify, what information must be requested, how the information should be submitted to FDA, and what the penalty is for failure to self-identify.

To facilitate the implementation of the self-identification requirement in GDUFA, FDA is establishing a new system for the electronic self-identification of generic industry facilities, sites, and organizations. Entities that are required to register and list under section 510 of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act, and those entities required to self-identify under GDUFA, will submit information separately to the respective systems. Each system will populate its own database to meet unique requirements and deadlines. The new GDUFA system will use the same platform and technical standards already familiar to manufacturers required to register and list.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on self-identification of generic drug facilities, sites, and organizations. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** for each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing this notice of the proposed collection of information set forth in this document.

With respect to the collection of information associated with this draft guidance, FDA invites comments on the following topics: (1) Whether the proposed information collected is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimated burden of the proposed information collected, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of information collected on the

respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Under GDUFA, and as described in the draft guidance, electronic self-identification will be required by all facilities, sites, and organizations involved in the development and manufacturing of generic drugs identified or intended to be identified in an approved or pending FDA generic drug submission. The electronic self-identification requirement applies equally to all domestic and foreign facilities and is independent of the obligation to pay user fees.

Generic drug facilities, sites, and organizations required under GDUFA to self-identify include:

1. Facilities that manufacture, or intend to manufacture, human generic drug APIs or FDFs, or both.
2. Sites and organizations that package the FDF of a human generic drug into the primary container/closure system and label the primary container/closure system.[1]
3. Sites that are identified in a generic drug submission and pursuant to a contract with the applicant remove the drug from a primary container/closure system and subdivide the contents into a different primary container/closure system.
4. Bioequivalence (BE)/bioavailability (BA) sites that are identified in a generic drug submission and conduct clinical BE/BA testing, bioanalytical testing of samples collected from clinical BE/BA testing, and/or in vitro BE testing.
5. Sites that are identified in a generic drug submission and perform testing of one or more attributes or characteristics of the FDF or the API pursuant to a contract with the applicant to satisfy a current good manufacturing practice (CGMP) testing requirement (excludes sites that are testing for research purposes only).

All of the facilities, sites, and organizations listed above are currently required to register and list except for #4.

FDA is establishing a new system for self-identification of generic industry facilities, sites, and organizations. Entities that are required to register and list, and those that are required to self-identify, will submit information to both systems separately. Each system will populate its own database to meet unique requirements and deadlines. Although separate, both systems are built on a common process already familiar to manufacturers required to register and list. This will minimize the cost and effort associated with compliance.

FDA will use the same electronic exchange standards and formats for self-identification that are used in the Drug Registration and Listing System (eDRLS) including XML file formats, which conform to message standards for Structured Product Labeling (SPL). Facilities, sites, and organizations will be able to generate electronic SPL files in the free eSubmitter tool available on FDA's Web site, or other commercially available tools, and submit the files through FDA's Electronic Submissions Gateway. Facilities, sites, and organizations will be required to provide Data Universal Numbering System (D–U–N–S) numbers and Facility Establishment Identifiers (FEI) to enable quick and accurate identification of registrants as well as facilities, sites, and organizations. They will also be required to submit information about the registrant, facility, and SPL file. Requested information will include:

Document Information—
Type of Document
ID Root
Set ID Root
Version number
Effective Time

Registrant Information—
Name
Registrant D–U–N–S Number
Registrant Contact Information
Establishment (Facility) Information—
Name
Establishment Facility D–U–N–S Number
FEI
Physical address
Type of Business Operations
Establishment (Facility) Contact Information

FDA estimates that approximately 2,650 facilities, sites, and organizations ("number of respondents" in Table 1) will submit the self-identification information set forth above and described in the draft guidance, resulting in approximately 3,000 annual submissions ("total annual responses" in Table 1). Although there will be one self-identification submission annually by each facility, site, and organization, we rounded the estimate upwards to approximately 3,000 to account for any revisions to the submissions, if needed. These estimates are based on FDA's database of manufacturers in eDRLS and are consistent with conversations between the Agency and representatives of regulated industry during the generic drug user fee negotiations. We also estimate that preparing and submitting this information will take approximately 2.5 hours for each facility ("hours per response" in Table 1). We base this estimate on the hour burden estimate for submitting drug registration information electronically under eDRLS, as approved by OMB under control number 0910–0045. Most facilities, sites, and organizations are familiar with the eDRLS process and already have the self-identification information available. Entities that are required to register would submit this information separately to the eDRLS system, as approved by OMB under control number 0910–0045.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
Generic Drug Facility and Site Electronic Self-Identification (including any revisions to the submission)	2,650	1.13	3,000	2.5	7,500
Total					7,500

[1] There are no capital costs or operating and maintenance costs associated with this information collection.

[1] Sites and organizations that package the FDF of a human generic drug into the primary container/closure system and label the primary container/closure system are considered to be manufacturers, whether or not that packaging is done pursuant to a contract or by the applicant itself.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: August 17, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–20946 Filed 8–22–12; 11:15 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0880]

Draft Guidance for Industry on Generic Drug User Fee Amendments of 2012: Questions and Answers; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled "Generic Drug User Fee Amendments of 2012: Questions and Answers." The Generic Drug User Fee Amendments of 2012 (GDUFA) is designed to speed the delivery of safe and effective generic drugs to the public and reduce costs to industry. GDUFA enables FDA to assess user fees to support critical and measurable enhancements to FDA's generic drugs program. GDUFA also requires that generic drug facilities, sites, and organizations located around the world provide identification information annually to FDA. This guidance is intended to provide answers to common questions from the generic drug industry and other interested parties involved in the development and/or testing of generic drug products regarding the requirements and commitments of GDUFA.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by October 26, 2012.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jaewon Hong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 866–405–5367 or 301–796–6707.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Generic Drug User Fee Amendments of 2012: Questions and Answers." GDUFA (Pub. L. 112–144, Title III) was signed into law by the President on July 9, 2012. GDUFA is designed to speed the delivery of safe and effective generic drugs to the public and reduce costs to industry. GDUFA enables FDA to assess user fees to support critical and measurable enhancements to FDA's generic drugs program.

GDUFA establishes fees for abbreviated new drug applications (ANDAs), prior approval supplements (PASs) to ANDAs, and drug master files (DMFs), annual facility fees, and a one-time fee for original ANDAs pending with FDA on October 1, 2012 (backlog fees). Fees will be incurred for ANDAs and PASs submitted on or after October 1, 2012. An application fee will also be incurred the first time a DMF is referenced in an ANDA or PAS submitted on or after October 1, 2012. FDA plans to publish the fee amounts for ANDAs, PASs, DMFs, and the backlog fee in the **Federal Register** on or before October 31, 2012.

The amount of the annual user fees for generic drug facilities will be determined after GDUFA program launch. Under GDUFA, facilities, sites, and organizations are first required to self-identify. Fees will be determined after the self-identification process has been completed, providing FDA information about the number of facilities that will be required to pay user fees. These include facilities manufacturing, or intending to manufacture, active pharmaceutical ingredients of human generic drugs and/or finished dosage form human generic drugs.

This draft guidance is intended to provide answers to common questions from generic drug industry participants and other interested parties involved in the development and/or testing of generic drug products regarding FDA's plans for implementing GDUFA. This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on generic drug user fee amendments of 2012. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov*. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: August 17, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–20944 Filed 8–22–12; 11:15 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0882]

Generic Drug User Fee Amendments of 2012; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a

public meeting to discuss implementation of the Generic Drug User Fee Amendments of 2012 (GDUFA). GDUFA requires that generic drug manufacturers pay user fees to finance critical and measurable generic drug program enhancements and also requires that generic drug facilities, sites, and organizations around the world provide identification information annually to FDA. The purpose of the public meeting is to discuss recent communications concerning GDUFA implementation and to provide an opportunity for the public to present views on these materials.

DATES: The public meeting will be held on September 21, 2012, from 9 a.m. to 1 p.m.

ADDRESSES: The public meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 2, Rm. 2047, Silver Spring, MD 20993. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Mary Gross, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6178, Silver Spring, MD 20993, 301–796–3519, email: *Mary.Gross@fda.hhs.gov;* or Randi Clark, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6166, Silver Spring, MD 20993, 301–796–4287, email: *Randi.Clark@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments: Submission of comments before the meeting is strongly encouraged. Regardless of attendance at the public meeting, interested persons may submit either electronic or written comments. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. The deadline for submitting comments is October 12, 2012.

Attendance and Registration: If you wish to attend and/or present at the meeting, please register for the meeting and/or make a request for oral presentation by email to *GDUFA_Meeting@fda.hhs.gov* by September 14, 2012. Your email should contain complete contact information for each attendee, including name, title, affiliation, address, email address, and telephone number. Registration is free and will be on a first-come, first-served basis. Early registration is recommended because seating is limited. (FDA may limit the number of participants from each organization, as well as the total number of participants, based on space limitations.) Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meeting will be based on the availability of space.

We will try to accommodate all persons who wish to make a presentation. Those making oral presentations at the meeting should submit to the docket a brief summary of the presentation (or questions), including the discussion topic(s) that will be addressed and the approximate time requested for your presentation. The time allotted for presentations will depend on the number of persons who wish to speak. If you need special accommodations because of a disability, please contact Mary Gross or Randi Clark (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

For those unable to attend in person, FDA will provide a Webcast and a telephone audio link to the meeting. To join the meeting via the Webcast, please go to *https://collaboration.fda.gov/gdufa91012.* If you have never attended a Connect Pro meeting, you may wish to test your connection by going to *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.*

I. Background

On July 9, 2012, GDUFA (Pub. L. 112–144, Title III) was signed into law by the President. Designed to speed access to safe and effective generic drugs to the public and reduce costs to industry, GDUFA requires that generic drug manufacturers pay user fees to finance critical and measurable generic drug program enhancements. GDUFA also requires that generic drug facilities, sites, and organizations located around the world provide identification information annually to FDA. Additional information concerning GDUFA, including the text of the law and the letter in which FDA describes commitments it is making for improvements in the process, may be found on the FDA Web site at *http://www.fda.gov/gdufa.*

The purpose of this meeting is to discuss recent communications that provide greater detail on FDA's GDUFA implementation plans. These communications are published elsewhere in this issue of the **Federal Register** and include the following:

- Draft Guidance for Industry *Generic Drug User Fee Amendments of 2012: Questions and Answers* (available at *http://www.fda.gov/gdufa*)
- Draft Guidance for Industry *Self-Identification of Generic Drug Facilities, Sites, and Organizations* (available at *http://www.fda.gov/gdufa*)
- **Federal Register** Notice of Opportunity To Withdraw Abbreviated New Drug Applications To Avoid Backlog Fee Obligations (available at *http://www.fda.gov/gdufa*)

The meeting will provide an overview of these communications and an opportunity for public input.

II. Meeting Organization

In general, the meeting format will include presentations by FDA, a panel discussion with stakeholder groups, individual public testimony, and an opportunity for questions and answers from the audience. The amount of time available for public testimony will be determined by the number of people who register to provide testimony. An agenda and other background for the public meeting will be posted at *http://www.fda.gov/gdufa* at least 2 days in advance of the meeting.

III. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Dated August 17, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–20945 Filed 8–22–12; 11:15 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0879]

Notice of Opportunity To Withdraw Abbreviated New Drug Applications To Avoid Backlog Fee Obligations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing this notice to provide applicants who are no longer seeking approval of their pending original abbreviated new drug applications (ANDAs) with an opportunity to withdraw them as soon as possible to avoid paying a fee. The fee in question is a one-time backlog fee that was established through enactment of the Generic Drug User Fee Amendments of 2012 (GDUFA). It will apply to any original ANDA that is pending (neither withdrawn nor tentatively approved) at FDA on October 1, 2012. This notice is intended to allow applicants to decide which ANDAs they do not wish to pursue and by timely notice of withdrawal avoid paying the new backlog fee on such applications.

DATES: Under GDUFA, to avoid incurring the backlog fee, an ANDA applicant covered by this notice must submit written notification to FDA so that it is received by September 28, 2012. However, to expedite this process, applicants are encouraged to submit their written notification by September 15, 2012.

ADDRESSES: Applicants should submit written notification of the request for withdrawal by standard application submission methods. If an application was submitted by the FDA electronic gateway, a request for withdrawal should be submitted to the application by the gateway. In addition, a copy of the electronic notification of withdrawal should be emailed to *OGDGDUFA@fda.hhs.gov*. Alternatively, the applicant should send written notification to the ANDA archival file at the following address: Office of Generic Drugs, Center for Drug Evaluation and Research, Food and Drug Administration, Document Control Room, Metro Park North VII, 7620 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Thomas Hinchliffe, Center for Drug Evaluation and Research (HFD–617), Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 240–276–9310, *OGDGDUFA@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Establishment of the Backlog Fee

On July 9, 2012, GDUFA (Pub. L. 112–144, Title III) was signed into law by the President. Designed to speed delivery of safe and effective generic drugs to the public and reduce costs to industry, GDUFA requires that generic drug manufacturers pay user fees to finance critical and measurable program enhancements. The new law includes a provision to assess user fees for any original ANDA that is pending on October 1, 2012, that has not been tentatively approved. Collection of fees for applications in the backlog will provide the Agency with necessary funding to reduce the backlog and prepare to meet the ANDA review performance goals established by GDUFA. Specifically, in the Commitment Letter that accompanies the law, FDA committed to review and act on 90 percent of all ANDAs pending on October 1, 2012, by the end of fiscal year 2017.

II. Backlog Fee Calculations for FY 2013

FDA will set the backlog fee rates for FY 2013 to generate a total of $50,000,000. Therefore, to determine the fee for a pending original ANDA, we will divide $50,000,000 by the number of original ANDAs that are pending on October 1, 2012, and have not been tentatively approved as of that date.

We have estimated that absent withdrawals there could be 3,000 pending original ANDAs on October 1, 2012. Some currently pending original ANDAs are old and incomplete, and FDA anticipates that applicants will withdraw many of them before October 1, 2012, to avoid incurring the backlog fee. If 2,000 original ANDAs were to remain, the backlog fee per ANDA would be $25,000. However, this is only an estimate; the final fee, which will be published along with payment instructions in a notice in the **Federal Register** by October 31, 2012, could be higher or lower.

III. Due Date and Penalty To Pay Backlog Fees

Payment of backlog fees will be due no later than 30 calendar days after publication in the **Federal Register** of a notice (to be issued by October 31, 2012) announcing the amount of the backlog fee. Applicants with original ANDAs that fail to pay the backlog fee by the due date will be placed on a publicly available arrears list, and FDA will not receive new ANDAs or supplements submitted by those applicants, or any affiliates [1] of those applicants, within the meaning of 505(j)(5)(A) of the Federal Food, Drug, and Cosmetic Act, until the outstanding fee is paid.

Note: The fee is an obligation to the U.S. Government, and failure to pay the fee may result in collection activities by the Government under applicable laws.

Dated: August 17, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–20947 Filed 8–22–12; 11:15 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Enabling Bioanalytical and Imaging Technologies.

Date: September 26, 2012.

Time: 11 a.m. to 1 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: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Prevention Therapeutics.

Date: September 26, 2012.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

[1] GDUFA defines the term "affiliate" as a business entity that has a relationship with a second business entity if, directly or indirectly, one business entity controls, or has the power to control, the other business entity; or a third party controls, or has power to control, both of the business entities.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Careen K Tang-Toth, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@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 21, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–20927 Filed 8–24–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2012–0797]

National Maritime Security Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The National Maritime Security Advisory Committee (NMSAC) will meet on September 11–12, 2012 in the Washington, DC metropolitan area to discuss various issues relating to national maritime security. This meeting will be open to the public.

DATES: The Committee will meet on Tuesday, September 11, 2012 from 9 a.m. to 3:30 p.m., and Wednesday, September 12, 2012 from 9 a.m. to 12 p.m. This meeting may close early if all business is finished.

All written material and requests to make oral presentations should reach the Coast Guard on or before September 7, 2012.

ADDRESSES: The Committee will meet at the American Bureau of Shipping, 1400 Key Blvd., Suite 800, Arlington, Virginia 22209. Seating is very limited. Members of the public wishing to attend the open sessions should register with Mr. Ryan Owens, Alternate Designated Federal Official (ADFO) of NMSAC, telephone 202–372–1108 or *ryan.f.owens@uscg.mil* no later than September 7, 2012. Additionally, this meeting will be broadcasted via a Web enabled interactive online format and teleconference line.

To participate via teleconference, dial (866) 810–4853; the pass code to join is 9760138#. Additionally, if you would like to participate in this meeting via the online Web format, please log onto *http://connect.hsin.gov/nmsac91112/* and follow the online instructions to register for this meeting.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed below in the **FOR FURTHER INFORMATION CONTACT** section 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. Identify your comments by docket number [USCG–2012–0797], and submit them no later than September 7, 2012 by using one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *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. We encourage use of electronic submissions because security screening may delay delivery of mail.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- *Instructions:* All submissions received must include the words "Department of Homeland Security" and docket number [USCG–2012–0797]. All submissions received will be posted without alteration at *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:* Any background information or presentations available prior to the meeting will be published in the docket. For access to the docket to read background documents or submissions received by the NMSAC, go to *www.regulations.gov*, and use "USCG–2012–0797" as your search term.

Public comment period will be held on September 11, 2012, from 3:00 p.m. to 3:30 p.m., and September 12, 2012 from 11:30 a.m. to 12 p.m. Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period will end following the last call for comments. Contact the person listed below in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, ADFO of NMSAC, 2100 2nd Street SW., Stop 7581, Washington, DC 20593–7581; telephone 202–372–1108 or email *ryan.f.owens@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). NMSAC operates under the authority of 46 U.S.C. 70112. NMSAC provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security.

Agenda of Meeting

The agenda for the Committee meeting is as follows:

Day 1

(1) *Maritime Domain Awareness and Information Sharing.* The Committee will hold a follow-up discussion from its last meeting to discuss the results of the Committee's efforts to poll the maritime industry on what gaps still remain in information sharing between the industry and the Federal Government with a panel of Department of Homeland Security (DHS) Information Sharing Executives. The Committee will make recommendations on how to improve the information sharing efforts of the Coast Guard and DHS.

(2) *Cyber-Security.* The Committee will discuss the parameters of a new tasking from the Coast Guard to provide guidance/recommendations on cyber-security initiatives within the maritime sector.

(3) *Utilization of the Marine Highway for the Protection of Metropolitan Areas from Hazardous Cargo.* The Committee will receive a brief on effort by the Maritime Administration to reduce the risk of hazardous cargo in metropolitan areas by utilizing the Marine Highway system.

(4) *Detain On-Board Requirements.* NMSAC will receive an update on implementation of recommendations made by the NMSAC on April 19, 2012 on Coast Guard and U.S. Customs and Border Protection (CBP) field guidance pertaining to requirements for vessels to post or contract for guards while in US ports.

(5) *Transport Canada/Coast Guard Regulatory Harmonization.* The

Committee will receive an update from Transport Canada and the Coast Guard on the two governments' efforts to harmonize security regulations across the northern border. The Committee will then provide recommendations on these efforts.

(6) *Integration of Facility Security Plans and Systems (Coast Guard Authorization Act section 822).* NMSAC will be tasked to provide comment/guidance on the provisions of section 822 of the Coast Guard Authorization Act of 2010.

(7) *Public Comment Period.* NMSAC will hear any other matters raised by the public. Please note that the public will have an opportunity to comment throughout the day on each topic as it is discussed.

Day 2

(1) *Port Security Grant Program Priorities.* The Committee will discuss and provide guidance/recommendations concerning Port Security Grant Program Priorities.

(2) *Radiation Portal Monitoring Replacement and Relocation.* The Committee will receive a brief and discuss and provide comment/recommendations on DHS efforts related to Radiation Portal Monitors.

(3) *Public comment period.* NMSAC will hear any other matters raised by the public. Please note that the public will have an opportunity to comment throughout the day on each topic as it is discussed.

Dated: August 22, 2012.

A.E. Tucci,

Captain, U.S. Coast Guard, Office of Port and Facility Compliance.

[FR Doc. 2012–21163 Filed 8–23–12; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities; Application and Approval To Manipulate, Examine, Sample, or Transfer Goods

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application and Approval to Manipulate, Examine, Sample, or Transfer Goods. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 36567) on June 19, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before September 26, 2012.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Application and Approval to Manipulate, Examine, Sample, or Transfer Goods.

OMB Number: 1651–0006.

Form Number: CBP Form 3499.

Abstract: CBP Form 3499, "*Application and Approval to Manipulate, Examine, Sample or Transfer Goods*", is used as an application to perform various operations on merchandise that is located at a CBP approved bonded facility. This form is filed by importers, consignees, transferees, or owners of merchandise, and is subject to approval by the port director. The data requested on the form identifies the merchandise for which action is being sought and specifies in detail what operation is to be performed. The form may also be approved as a blanket application to manipulate for a period of up to one year for continuous or repetitive manipulation. CBP Form 3499 is provided for by 19 CFR 19.8 and is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_3499.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Responses: 151,140.

Estimated Time per Response: 6 minutes.

Estimated Total Annual Burden Hours: 15,114.

Dated: August 21, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–21015 Filed 8–24–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities; User Fees

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: User Fees. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 35992) on June 15, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before September 26, 2012.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: User Fees.

OMB Number: 1651–0052.

Form Number: CBP Forms 339A, 339C and 339V.

Abstract: The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA—PL 99–272; 19 U.S.C. 58c) authorizes the collection of user fees by CBP. The collection of these fees requires submission of information from the party remitting the fees to CBP. This information is submitted on three forms including the CBP Form 339A for aircraft at *http://forms.cbp.gov/pdf/cbp_form_339a.pdf;* CBP Form 339C for commercial vehicles at *http://forms.cbp.gov/pdf/cbp_form_339c.pdf;* and CBP Form 339V for vessels at *http://forms.cbp.gov/pdf/cbp_form_339v.pdf.* The information on these forms may also be filed electronically at *https://dtops.cbp.dhs.gov/.* This collection of information is provided for by 19 CFR 24.22.

In addition, CBP requires express consignment courier facilities (ECCFs) to file lists of couriers using the facility in accordance with 19 CFR 128.11. ECCFs are also required to file a quarterly report in accordance with 19 CFR 24.23(b)(4).

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours to allow for a change in the number of ECCF's.

Type of Review: Extension (with change).

Affected Public: Businesses.

CBP Form 339A—Aircraft

Estimated Number of Respondents: 15,000.

Estimated Number of Annual Responses: 15,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 4,005.

CBP Form 339C—Vehicles

Estimated Number of Respondents: 50,000.

Estimated Number of Annual Responses: 50,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 16,500.

CBP Form 339V—Vessels

Estimated Number of Respondents: 10,000.

Estimated Number of Annual Responses: 10,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 2,670.

ECCF Quarterly Report

Estimated Number of Respondents: 18.

Estimated Number of Annual Responses: 72.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 144.

ECCF Application and List of Couriers

Estimated Number of Respondents: 3.

Estimated Number of Annual Responses: 12.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 6.

Dated: August 22, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–21067 Filed 8–24–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2012–N215: FXIA16710900000P5–123–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before September 26, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, "Delivering an Efficient, Effective, and Accountable Government," and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Erik Lacy, Oakdale, CA; PRT–81003A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: La Coma the Red Gate Co., Edinburg, TX; PRT–81782A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (Rucervus duvaucelii), scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: La Coma the Red Gate Co., Edinburg, TX; PRT–81783A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess barasingha (*Rucervus duvaucelii*) and red lechwe (*Kobus leche*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Melissa White, Elizabeth, CO; PRT–81903A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Tipurtu South Texas Investments, Ltd., Carrizo Springs, TX; PRT–81674A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (*Oryx dammah*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Tipurtu South Texas Investments, Ltd., Carrizo Springs, TX; PRT–81673A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Squaw Mountain Ranch Outfitters, Jacksboro, TX; PRT–81327A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Squaw Mountain Ranch Outfitters, Jacksboro, TX; PRT–81329A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Gomez Development LLC, Edinburg, TX; PRT–81324A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (*Oryx dammah*) to enhance the species' propagation or survival. This

notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Gomez Development LLC, Edinburg, TX; PRT–81326A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Glades Herp Farm Inc., Bushnell, FL; PRT–81039A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families:
Crocodylidae
Species:
Galapagos tortoise (*Chelonoidis nigra*)
Radiated tortoise (*Astrochelys radiata*)
Indian python (*Python molurus molurus*)
Aruba island rattlesnake (*Crotalus durissus unicolor*)
Cuban ground iguana (*Cyclura nubila nubila*)
Grand Cayman blue iguana (*Cyclura lewisi*)
Cayman Brac ground iguana (*Cyclura nubila caymanensis*)

Applicant: Boulder Ridge Ranch LLC, Alto, MI; PRT–80856A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Species:
Galapagos tortoise (*Chelonoidis nigra*)
Radiated tortoise (*Astrochelys radiata*)
Nile crocodile (*Crocodiles niloticus*)
Salmon-crested cockatoo (*Cacatua moluccensis*)
Ring-tailed lemur (*Lemur catta*)
Black and white ruffed lemur (*Varecia variegata*)
Cottontop tamarin (*Saguinus oedipus*)
Asian wild ass (*Equus hemionus*)
Dama gazelle (*Nanger dama*)
Addax (*Addax nasomaculatus*)
Scimitar-horned oryx (*Oryx dammah*)
Red lechwe (*Kobus leche*)

Applicant: Bamberger Ranch Preserve, Johnson City, TX; PRT–79430A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Donald Palmerino, Southbridge, MA; PRT–74561A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the golden parakeet (*Guarouba guarouba*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Jackson Zoological Society, Inc., Jackson, MS; PRT–691441

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families:
Callithricidae
Cercopithecidae
Equidae
Erethizontidae
Felidae (*does not* include jaguar, margay, or ocelot)
Hominidae
Hylobatidae
Lemuridae
Rhinocerotidae
Tapiridae
Sturnidae (*does not* include *Aplonis pelzelni*)
Crocodylidae (*does not* include American crocodile)

Applicant: Turtle Back Zoo, West Orange, NJ; PRT–75691A

The applicant requests a permit to export one female captive-bred Amur leopard (*Panthera pardus orientalis*) for the purpose of enhancement of the survival of the species.

Applicant: U.S. Fish and Wildlife Service-MBO/SJV, Tucson, AZ; PRT–67109A

The applicant requests a permit to export and re-import captive-bred and wild specimens including live biological samples, salvaged material, and viable eggs of Masked bobwhite quail (*Colinus virginianus ridgwayi*), as part of the identified tasks and mandates of the recovery program for this species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Harkey Ranch Enterprises, LLC, Brownwood, TX; PRT–79777A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (*Oryx dammah*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ryan McDonald, Waxahachie, TX; PRT–82656A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Valerie Holt, Moapa, NV; PRT–165748

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the brush-tailed rat-kangaroo or Woylie (*Bettongia penicillata*), ring-tailed lemur (*Lemur catta*), brown lemur (*Eulemur fulvus*), black and white ruffed lemur (*Varecia variegata*), red ruffed lemur (*Varecia rubra*), and golden parakeet (*Guarouba guarouba*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Scovill Zoo, Decatur, IL; PRT–704654

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the family Lemuridae, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Florida Fish & Wildlife Conservancy Commission, Port Charlotte, FL; PRT–82590A

The applicant requests a permit to export fin clip samples to a laboratory in Canada for management plans of the species smalltooth sawfish (*Pristis pectinata*) 350 samples wild, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Louisville Zoological Garden, Louisville, KY; 680317

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families:
Felidae
Lemuridae
Species:
Cuban crocodile (*Crocodylus rhombifer*)

Applicant: Smithsonian National Zoological Park, Washington, DC; PRT–75218A

The applicant requests a permit to take biological samples, from 70 green sea turtles (*Chelonia mydas*) in Costa Rica and 70 loggerhead sea turtles (*Caretta caretta*) in Mexico. These are from a wild source for the purpose of enhancement of the survival of the species/scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: John Hattner, Keller, TX; PRT–81990A

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–21007 Filed 8–24–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ956000.L14200000.BJ0000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing a dependent resurvey of the west boundary, Township 23 North, Range 15 East, the survey of the west and north boundaries, a Sectional Guide Meridian and Sectional Correction Line, the subdivisional lines and the subdivision of certain sections, Township 23 North, Range 14 East, accepted August 15, 2012, and officially filed August 17, 2012, for Group 1093, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the survey of the south and east boundaries, and the subdivisional lines, and the subdivision of certain sections, Township 40 North, Range 24 East, accepted August 13, 2012, and officially filed August 15, 2012, for Group 1096, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

Stephen K. Hansen,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2012–21072 Filed 8–24–12; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000: HAG12–0264]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management Oregon/Washington State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 18 S., R. 6 W., accepted August 3, 2012.
T. 14 S., R. 2 W., accepted August 3, 2012.
T. 17 S., R. 7 W., accepted August 3, 2012.

ADDRESSES: A copy of the plats may be obtained from the Land Office at the Bureau of Land Management, Oregon/Washington State Office, 333 SW. 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the Oregon/Washington State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6124, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: 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.

Mary J.M. Hartel,

Chief, Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2012–21064 Filed 8–24–12; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR912000.63500000.DQ0000; HAG12–0269]

Notice of Public Meetings, Western Oregon Resource Advisory Committees

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

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) western Oregon Resource Advisory Committees, will meet as indicated below.

DATES: *Coos Bay District:* Thursday, September 20 from 9 a.m. to 4 p.m.

Eugene District: Friday, September 7 from 8 a.m. to 5 p.m.

Medford District: Wednesday, September 12 from 8:30 a.m. to 5 p.m.

Roseburg District: Monday, September 17 from 9 a.m. to 4 p.m.

Salem District: Thursday, September 20 from 9 a.m. to 4:30 p.m.

ADDRESSES: The meetings will be held at the following addresses in western Oregon. The point of contact for each meeting is also listed:

Coos Bay District Resource Advisory Committee: Megan Harper, 1300 Airport Lane, North Bend, Oregon 97459, (541) 756–0100.

Eugene District Resource Advisory Committee: Pat Johnston, 3106 Pierce Parkway, Suite E, Springfield, Oregon 97477, (541) 683–6600.

Medford District Resource Advisory Committee: Jim Whittington, 3040 Biddle Road, Medford, Oregon 97504, (541) 618–2200.

Roseburg District Resource Advisory Committee: Jake Winn, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470, (541) 440–4930.

Salem District Resource Advisory Committee: Richard Hatfield, 1717 Fabry Road SE., Salem, Oregon 97306, (503) 375–5657.

FOR FURTHER INFORMATION CONTACT: Jeff Clark, Bureau of Land Management, Oregon/Washington, Oregon State Office, PO Box 2965, Portland, Oregon 97208, (503) 808–6028; *jeffclark@blm.gov.*

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Secure Rural Schools and Community Self Determination Act was extended to provide stability for local counties by compensating them, in part, for the decrease in funds formerly derived from the harvest of timber on Federal lands. Pursuant to the Act, the five Committees serve western Oregon BLM districts that contain Oregon and California grant lands and Coos Bay Wagon Road grant lands. Committees consist of 15 local citizens representing a wide array of interests. The RACs provide a mechanism for local community collaboration with Federal land managers as they select projects to be conducted on Federal lands or that will benefit resources on Federal lands using funds under Title II of the Act.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council 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. The Resource Advisory Committees will be based on the following BLM District boundaries:

Coos Bay District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Coos Bay District which includes lands in Coos, Curry, Douglas, and Lane Counties.

Eugene District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Eugene District boundary which includes lands in Benton, Douglas, Lane, and Linn Counties.

Medford District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Medford District and Klamath Falls Resource Area in the Lakeview District which includes lands in Coos, Curry, Douglas, Jackson, and Josephine Counties and small portions of west Klamath County.

Roseburg District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Roseburg District boundary which includes lands in Douglas, Lane, and Jackson Counties..

Salem District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Salem District boundary which includes lands in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

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: Title VI, Section 205 of Pub. L. 110–343.

Michael S. Mottice,

Acting State Director Oregon/Washington.

[FR Doc. 2012–21000 Filed 8–24–12; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTL–00000–01–L10200000–PG0000]

Notice of Public Meeting; Central Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be September 18–19, 2012.

The September 18 meeting will begin at 10 a.m. with a 30-minute public comment period and will adjourn at 5:15 p.m.

The September 19 meeting will begin at 8 a.m. with a 30-minute public comment period beginning at 10 a.m. and will adjourn at 12 p.m.

ADDRESSES: The meetings will be in the Lewistown Field Office Conference Room at 920 NE Main, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Gary L. "Stan" Benes, Central Montana District Manager, Lewistown Field Office, 920 NE Main, Lewistown, MT 59457, (406) 538–1900, *gary_benes@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: This 15-member council advises the Secretary of the Interior on a variety of management issues associated with public land management in Montana. During these meetings the council will participate in/discuss/act upon these topics/activities: a roundtable discussion among council members and the BLM; the Charles M. Russell National Wildlife Refuge conservation plan; a Greater Sage-Grouse update; Judith River and Arrow Creek reserved water rights update; district managers' updates; fire and mitigation education program updates; Draft HiLine Resource Management Plan and Ft. Belknap Water compact update; a riparian assessment report; and U.S. Department of the Interior Bison Conservation Initiative update. All RAC meetings are open to the public. The public may present written comments to the RAC. 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.

Gary L. "Stan" Benes,

Central Montana District Manager.

[FR Doc. 2012–21006 Filed 8–24–12; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–533]

Environmental and Related Services

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request on July 30, 2012 from the U.S. Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332–533, *Environmental and Related Services*.

DATES: October 4, 2012: Deadline for filing requests to appear at the public hearing.

October 10, 2012: Deadline for filing pre-hearing briefs and statements.

October 22, 2012: Public hearing.

October 30, 2012: Deadline for filing post-hearing briefs and statements and all other written submissions.

March 29, 2013: Transmittal of Commission report to USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/edis3-internal/app*.

FOR FURTHER INFORMATION CONTACT: Project Leader Jennifer Powell (202–205–3450 or *Jennifer.Powell@usitc.gov*) or Deputy Project Leader Joann Peterson (202–205–3032 or *Joann.Peterson@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). 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.

Background: In his letter the USTR requested that the Commission prepare two reports, one on environmental and related services, and a second on renewable energy and related services, and deliver the reports in 8 and 11 months, respectively, after receipt of the letter. This notice announces the institution of an investigation and schedule, including the date for a public hearing, relating to the preparation of the first report; the Commission will announce the institution of a second investigation and schedule relating to preparation of the second report in a second notice.

As requested by the USTR, the Commission will provide a first report, on environmental and related services, that, to the extent practicable:

- Estimates the size of the U.S. and global markets for certain environmental and related services—including water and wastewater services, solid and hazardous waste services, and remediation services—identifies top suppliers and key country markets for such services, investigates factors affecting supply and demand in these market segments, and highlights market developments that have occurred within the last five years;
- Estimates the value of trade and investment in the subject environmental services segments, identifies key export and import markets for such services, and discusses recent trends in environmental services trade and investment; and
- Identifies barriers to trade and investment in the subject environmental services segments, discusses recent efforts to liberalize trade and investment in environmental services, and investigates the potential impact of further liberalization in environmental services.

As requested, the Commission expects to deliver this first report to the USTR no later than March 29, 2013.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on October 22, 2012. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., October 4, 2012. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., October 10, 2012 and all post-hearing briefs and statements should be filed not later than 5:15 p.m., October 30, 2012; all such pre- and post-hearing briefs and statements must be filed in accordance with the requirements in the "Submissions" section below. In the event that, as of the close of business on October 4, 2012 no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202–205–2000 after October 4, 2012, for

information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., October 30, 2012. All written submissions must conform with the provisions of section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 noon eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements in section 201.6 of the *Commission's Rules of Practice and Procedure* (19 C.F.R. 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

In the request letter, the USTR stated that his office intends to make the Commission's report available to the public in its entirety, and asked that the Commission not include any confidential business information or national security classified information in the report that the Commission sends to the USTR. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: August 21, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–20956 Filed 8–24–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–702 (Third Review)]

Ferrovanadium and Nitrided Vanadium From Russia

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on September 1, 2011 (76 FR 54490) and determined on December 5, 2011 that it would conduct a full review (76 FR 79214, December 21, 2011). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on February 8, 2012 (77 FR 6582). The hearing was held in Washington, DC, on June 21, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on August 22, 2012. The views of the Commission are contained in USITC Publication 4345 (August 2012), entitled *Ferrovanadium and Nitrided Vanadium from Russia: Investigation No. 731–TA–702 (Third Review).*

Issued: August 22, 2012.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–21048 Filed 8–24–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–844]

Certain Drill Bits and Products Containing Same; Determination To Review an Initial Determination; on Review, Affirmance of Grant of Summary Determination on the Merits; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination ("ID") (Order No. 9) of the presiding administrative law judge ("ALJ") granting summary determination of no importation and terminating the investigation. On review, the Commission has determined to affirm the ALJ's grant of summary determination of no importation on the merits and terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 4, 2012, based on a complaint filed by Boart Longyear Company and Longyear TM, Inc. both of South Jordan, Utah. 76 FR 32997 (June 4, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. 1337, in the

importation into the United States, the sale for importation, and the sale within the United States after importation of certain drill bits and products containing the same by reason of infringement of certain claims of United States Patent Nos. 7,828,090; 7,874,384; and 8,051,929. The notice of investigation named the following entities as respondents: Boyles Bros Diamantina S.A. of Lima, Peru; Christensen Chile S.A. of Santiago, Chile; Diamantina Christensen Trading Inc. of Panama; and Intermountain Drilling Supply Corp. of West Valley City, Utah.

On June 11, 2012, Respondents filed a motion for summary determination of no importation pursuant to 19 U.S.C. 1337(a)(1)(B). On June 21, 2012, Complainants filed an opposition to the motion. On July 10, 2012, the ALJ issued the subject ID, granting Respondents' motion for summary determination of no importation and terminating the investigation.

On July 24, 2012, Complainants filed a petition for review of the ID. Respondents filed an opposition to Complainants' petition on July 31, 2012.

Having examined the record of this investigation, including the ALJ's ID, the petition for review, and the response thereto, the Commission has determined to review the ID. On review, the Commission affirms the ALJ's grant of summary determination of no importation but does not adopt any statements in the ID to the effect that the determination is on jurisdictional grounds. Specifically, the Commission finds that the ALJ's determination appropriately considers the merits, and the Commission affirms the ALJ's determination on the merits. Complainants may re-file their complaint if they can make an allegation of importation into the United States, the sale for importation, or the sale within the United States after importation of accused products after issuance of the asserted patents.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46).

Issued: August 22, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–20991 Filed 8–24–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree under the Clean Water Act

Notice is hereby given that on August 22, 2012, a proposed Consent Decree in *United States* v. *Sterling Suffolk Racecourse, LLC,* Civil Action No. 12-cv-11556, was lodged with the United States District Court for the District of Massachusetts.

The Consent Decree resolves the United States' claims under Section 301 of the Clean Water Act, 33 U.S.C. 1311, relating to the Defendant's horse racing facility in East Boston and Revere, Massachusetts. The Defendant will pay $1.25 million as a civil penalty and will continue to perform work at the facility, estimated to cost approximately $3.29 million, in order to comply with the anticipated terms of a new National Pollutant Discharge Elimination System Permit. Finally, the Defendant will be responsible for the performance of three Supplemental Environmental Projects with an estimated value of $742,000 that will provide water quality monitoring and protection efforts for the nearby watershed.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to the matter as *United States* v. *Sterling Suffolk Racecourse, LLC,* D.J. Ref. Number 90–5–1–1–09639.

During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to "Consent Decree Copy" (*EESCDCopy.ENRD@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–5271. If requesting by mail from the Consent Decree Library a copy of the proposed Consent Decree only, please so note and enclose a check in the amount of $13.75 (25 cents per page reproduction cost for the 55 page proposed Consent Decree) payable to the U.S. Treasury. If you would also like a copy of the attachments to the proposed Consent Decree, please so note and include an additional $13.25 (25 cents per page for the 53 pages of attachments). If requesting by email or fax, forward a check in that amount to the Consent Decree Library at the address given above.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resource Division.

[FR Doc. 2012–21028 Filed 8–24–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1602]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP), DOJ.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of the Public Safety Officer Medal of Valor Review Board to review and vote on recommendations for the 2011–2012 Medal of Valor nominations, consider issues relevant to the nomination review process, discuss pending ceremonies and upcoming activities and other relevant Board issues related thereto. The meeting date and time is listed below.

DATES: September 20, 2012, 9 a.m. to 1 p.m. ET.

ADDRESSES: This meeting will take place at 810 7th Street NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531, by telephone at (202) 514–1369, toll free (866) 859–2687, or by email at *gregory.joy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

The primary purpose of this meeting is to review and vote on recommendations for the 2011–2012 Medal of Valor nominations.

This meeting is open to the public at the offices of the Bureau of Justice Assistance. For security purposes,

members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy. All interested participants will be required to meet at the Bureau of Justice Assistance, Office of Justice Programs; 810 7th Street NW., Washington, DC and will be required to sign in at the front desk. Note: Photo identification will be required for admission. Additional identification documents may be required.

Access to the meeting will not be allowed without prior registration. Anyone requiring special accommodations should contact Mr. Joy at least seven (7) days in advance of the meeting. Please submit any comments or written statements for consideration by the Review Board in writing at least seven (7) days in advance of the meeting date.

Gregory Joy,

Policy Advisor/Designated Federal Officer, Bureau of Justice Assistance.

[FR Doc. 2012–21004 Filed 8–24–12; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Ground Control Plans for Surface Coal Mines and Surface Work Areas of Underground Coal Mines

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, "Ground Control Plans for Surface Coal Mines and Surface Work Areas of Underground Coal Mines," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before September 26, 2012.

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 from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* 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–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: 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: Each operator of a surface coal mine is required by Regulations 30 CFR 77.1000 to establish and follow a ground control plan that is consistent with prudent engineering design and that will ensure safe working conditions. The mine operator is required by § 77.1000–1 to file the ground control plan under § 77.1000 for highwalls, pits, and spoil banks with the appropriate MSHA District Manager. The mining methods employed by the operator are selected to ensure highwall, pit, and spoil bank stability. In the event of a highwall failure or material dislodgment, there may be very little time to escape possible injury; therefore, preventive measures must be taken. Each plan is based on the type of strata expected to be encountered, the height and angle of highwalls and spoil banks, and the equipment to be used at the mine. The plan is used to show how the mine operator will maintain safe conditions around the highwalls, pits, and spoil banks. Each plan is reviewed by the MSHA to ensure highwalls, pits, and spoil banks are maintained in a safe condition through the use of sound engineering design.

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 if the collection of information 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 1219–0026. The current approval is scheduled to expire on October 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on May 2, 2012 (77 FR 26046).

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 1219–0026. 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–MSHA.

Title of Collection: Ground Control Plans for Surface Coal Mines and Surface Work Areas of Underground Coal Mines.

OMB Control Number: 1219–0026.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 844.

Total Estimated Number of Responses: 844.

Total Estimated Annual Burden Hours: 5,840.

Total Estimated Annual Other Costs Burden: $2,844.

Dated: August 22, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–21035 Filed 8–24–12; 8:45 a.m.]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Dominican Republic—Central America—United States Free Trade Agreement; Notice of Extension of the Period of Review for Submission #2011–03 (Dominican Republic)

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice.

The Office of Trade and Labor Affairs (OTLA) in the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor has determined that an extension of time is required for its review of Submission #2011–03 concerning the Dominican Republic (the Submission) filed under Chapter Sixteen (the Labor Chapter) of the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA–DR).

On December 22, 2011, OTLA received the Submission from Father Christopher Hartley. It alleges action or inaction by the Government of the Dominican Republic that, if substantiated, could be inconsistent with the Dominican Republic's commitments under the Labor Chapter.

OTLA accepted the Submission for review on February 22, 2012 (77 FR 15397 (2012)), in accordance with its published Procedural Guidelines (71 FR 76694 (2006)). Acceptance triggers a 180-day fact-finding and review period that results in the issuance of a public report of any findings and recommendations. The objective of fact-finding and review is to gather information so that OTLA can better understand the case and publicly report on the U.S. Government's views regarding whether the Government of the Dominican Republic's action or inaction was consistent with the obligations set forth in the Labor Chapter. The public report will include a summary of the review process, as well as any findings and recommendations.

As part of its ongoing review, OTLA sent a delegation to the Dominican Republic from April 22–30, 2012, to gather information on issues raised by the Submission. The OTLA delegation met with representatives from the Government of the Dominican Republic, employers, workers, and other groups with information relevant to the Submission. ILAB conducted a follow-up visit to the Dominican Republic from July 22–25, 2012, during which its delegation met again with the above representatives and with additional stakeholders in order to collect additional information.

According to the Procedural Guidelines, if OTLA determines circumstances require an extension of time, it can delay the report's publication (Procedural Guidelines, Sec. H.7). OTLA has determined that the circumstances require an extension of time, pursuant to section H.7 of the Procedural Guidelines. The extension of time is necessary to permit adequate consideration of the following information that OTLA recently received:

- Public comments in response to the **Federal Register** Notice (77 FR 36578 (2012)) that OTLA issued on June 19, 2012, soliciting information relevant to the Submission by July 2, 2012; and
- Information the ILAB delegation collected during its July 22–25, 2012 visit to the Dominican Republic.

OTLA will continue to give this matter the highest priority in order to complete the review as expeditiously as possible.

DATES: *Effective Date:* August 20, 2012.

FOR FURTHER INFORMATION CONTACT: Gregory Schoepfle, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5303, Washington, DC 20210. Telephone: (202) 693–4900 (this is not a toll-free number).

Signed at Washington, DC on August 20, 2012.

Carol Pier.

Acting Deputy Undersecretary, International Affairs.

[FR Doc. 2012–21044 Filed 8–24–12; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure 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 Office of Workers' Compensation Programs is soliciting comments concerning the proposed extension of the existing collection: Health Insurance Claim Form (OWCP–1500). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before October 26, 2012.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–2447, Email *ferguson.yoon@dol.gov*. Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. *Background:* The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 et seq., the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 et seq., and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 et seq. All three of these statutes require that OWCP pay for medical treatment of beneficiaries: BLBA also requires that OWCP pay for medical examinations and related diagnostic services to determine eligibility for benefits under that statute. Form OWCP–1500 is used by OWCP and contractor bill processing staff to process bills for medical services provided by medical professionals other than medical services provided by hospitals, pharmacies and certain other medical providers. To consider the appropriateness of the requested payment in a timely fashion, it is essential that provider bills be submitted on a standard form that will capture the critical data elements needed to evaluate the bill, such as procedure and diagnosis codes. This information collection is currently approved for use through November 30, 2012.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

III. *Current Actions:* The Department of Labor seeks the approval of the extension of this currently approved information collection in order to carry out its responsibility to provide payment for certain covered medical services to eligible employees who are covered under FECA, BLBA or EEOICPA.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Health Insurance Claim Form.

OMB Number: 1240–0044.

Agency Number: OWCP–1500.

Affected Public: Individuals or households, businesses or other for-profit.

Total Respondents: 71,304.

Total Responses: 3,036,067.

Time per Response: 1—7 minutes.

Estimated Total Burden Hours: 322,838.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or 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 21, 2012.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2012–20957 Filed 8–24–12; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure 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 Office of Workers' Compensation Programs is soliciting comments concerning its proposal to extend OMB approval of the information collection: Representative Fee Request (CA–143/CA–155). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before October 26, 2012.

ADDRESSES: Ms Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–2447, Email *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. *Background:* Individuals filing for compensation benefits with the Office of Workers' Compensation Programs (OWCP) may be represented by an attorney or other representative. The representative is entitled to request a fee for services under the Federal Employees' Compensation Act (FECA) and under the Longshore and Harbor Workers' Compensation Act (LHWCA). The fee must be approved by the OWCP before any demand for payment can be made by the representative. This information collection request sets forth the criteria for the information, which must be presented by the respondent in order to have the fee approved by the OWCP. The information collection does not have a particular form or format; the respondent must present the information in any format which is convenient and which meets all the required information criteria. This information collection is currently approved for use through December 31, 2012.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

• 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 submissions of responses.

III. *Current Actions:* The Department of Labor seeks the approval for the extension of this currently approved information collection in order to carry out its responsibility to approve representative fees under the two Acts.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Representative Fee Request

OMB Number: 1240–0049.

Agency Number: CA–143/CA–155.

Affected Public: Business or other for-profit, Individuals or households.

Total Respondents: 12,363.

Total Annual Responses: 12,363.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 6,182.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $15,696.

Comments submitted in response to this notice will be summarized and/or 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 21, 2012.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2012–20961 Filed 8–24–12; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure 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 Office of Workers' Compensation Programs is soliciting comments concerning the proposed extension of the existing collection: Uniform Billing Form (OWCP–04). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before October 26, 2012.

ADDRESSES: Ms Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–2447. Email *ferguson.yoon@dol.gov*. Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 et seq., the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 et seq., and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 et seq. All three of these statutes require that OWCP pay for medical treatment of beneficiaries; this medical treatment can include inpatient/outpatient hospital services, as well as services provided by nursing homes, skilled nursing facilities and home health aides in the home. In order to determine whether billed amounts are appropriate, OWCP needs to identify the patient, the specific services that were rendered and their relationship to the work-related injury or illness. The regulations implementing these statutes require the use of Form OWCP–04 or UB–04 for the submission of medical bills from institutional providers (20 CFR 10.801, 30.701, 725.405, 725.406, 725.701 and 725.704). The Uniform Billing form, known as the paper UB–04, has been approved by the American Hospital Association, the Centers for Medicare and Medicaid Services and the Civilian Health and Medical Program of Uniformed Services (CHAMPUS), by various other government health care providers, and the private sector to request payment to institutional providers of medical services. The paper UB–04 has been designed by the National Uniform Billing Committee and is neither a government-printed form nor distributed by OWCP. However, this collection includes the paper UB–04 as a collection instrument, with detailed instructions prepared by OWCP to ensure that it obtains only the information needed to consider requests for payment from institutional providers using this billing form. This information collection is currently approved for use through November 30, 2012.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

The Department of Labor seeks the approval of the extension of this currently approved information collection in order to carry out its responsibility to provide payment for covered medical services to beneficiaries who are covered under FECA, BLBA and EEOICPA.

Type of Review: Extension

Agency: Office of Workers' Compensation Programs

Title: Uniform Billing Form

OMB Number: 1240–0019

Agency Number: OWCP–04

Affected Public: Individuals or households; Businesses or other for-profit; Not-for-profit institutions

Total Respondents: 6,947

Total Responses: 230,997

Time per Response: 1–7 minutes

Estimated Total Burden Hours: 26,599

Total Burden Cost (capital/startup): $0

Total Burden Cost (operating/maintenance): $0

Comments submitted in response to this notice will be summarized and/or 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 21, 2012.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2012–20958 Filed 8–24–12; 8:45 am]

BILLING CODE 4510–CR–P

LIBRARY OF CONGRESS

Copyright Royalty Board

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges are announcing receipt of two notices of intent to audit the 2009, 2010, and 2011 statements of account submitted by DKCM, Inc. and Greater Media, Inc., concerning the royalty payments made by each pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov*.

SUMMARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to perform publicly sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, this right is limited to two statutory licenses. The

section 114 license allows the public performance of sound recordings by means of digital audio transmissions by nonexempt noninteractive digital subscription services and eligible nonsubscription services. 17 U.S.C. 114(f). The second license allows a service to make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR part 380. As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the organization charged with collecting the royalty payments and statements of account submitted by eligible nonsubscription services such as, among others, Commercial Webcasters and Broadcasters, and distributing the royalties to the copyright owners and performers entitled to receive such royalties under the section 112 and 114 licenses. 37 CFR 380.4(b)(1) (Commercial Webcasters), 380.13(b)(1) (Broadcasters). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year for the purpose of verifying their royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee to be audited. 37 CFR 380.6(c), 380.15(c).

On August 8, 2012, SoundExchange filed with the Judges separate notices of intent to audit DKCM, Inc., a Commercial Webcaster, and Greater Media, Inc., a Broadcaster, for the years 2009, 2010, and 2011. Sections 380.6(c) and 380.15(c) require the Judges to publish a notice in the **Federal Register** within 30 days of receipt of the notice announcing the Collective's intent to conduct an audit.

In accordance with §§ 380.6(c) and 380.15(c), the Copyright Royalty Judges are publishing today's notice to fulfill this requirement with respect to SoundExchange's respective notices of intent to audit DKCM, Inc., and Greater Media, Inc., each filed August 8, 2012.

Dated: August 22, 2012.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2012–21049 Filed 8–24–12; 8:45 am]

BILLING CODE 1410–72–P

OFFICE OF MANAGEMENT AND BUDGET

OMB Sequestration Update Report to the President and Congress for Fiscal Year 2013

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability of the OMB Sequestration Update Report to the President and Congress for FY 2013.

SUMMARY: Public Law 112–25, the Budget Control Act of 2011 (BCA, "the Act") amended the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) by reinstating the discretionary spending limits that had expired after 2002. Section 254 of the BBEDCA requires the Office of Management and Budget (OMB) to issue a Sequestration Update Report on August 20th of each year on the overall status of discretionary legislation. This report provides OMB's current estimates of the spending limits set in the Act and OMB's scoring of pending appropriations legislation against those limits as of August 2012. As required, these estimates rely on the same economic and technical assumptions used in the President's 2013 Budget, which the Administration transmitted to the Congress on February 13, 2012.

DATES: *Effective Date:* Sec. 254(b). SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the **Federal Register**.

ADDRESSES: The OMB Sequestration Reports to the President and Congress is available on-line on the OMB home page at: *http://www.whitehouse.gov/omb/legislative_reports/sequestration.*

FOR FURTHER INFORMATION CONTACT: Thomas Tobasko, 6202 New Executive Office Building, Washington, DC 20503, Email address: *tobasko@omb.eop.gov*, telephone number: (202) 395–5745, FAX number: (202) 395–4768 or Jenny Winkler Murray, 6236 New Executive Office Building, Washington, DC 20503, Email address: *jwinkler@omb.eop.gov*, telephone number: (202) 395–7763, FAX number: (202) 395–4768. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

Jeffrey D. Zients,

Acting Director.

[FR Doc. 2012–20939 Filed 8–24–12; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received; Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 26, 2012. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or (703) 292–7420.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. Applicant

Philip R. Kyle, Department of Earth and Environmental Science, NM

Institute of Mining and Technology, Socorro, NM 87801.

Permit Application: 2013–018.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Areas. The applicant plans to enter ASPA 130-Tramway Ridge, Mt. Erebus to measure soil temperatures and sample gases emitted in weak gas vents for comparison with gases emitted elsewhere on Erebus. The composition of the gas emissions is important as it is likely the source of nutrients/energy that supports extremophiles in the soil.

Location

ASPA 130-Tramway Ridge, Mt. Erebus, Ross Island.

Dates

December 1, 2012 to January 31, 2014.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2012–20990 Filed 8–24–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–029–COL, 52–030–COL; ASLBP No. 09–879–04–COL–BD01]

Atomic Safety and Licensing Board; In the Matter of Progress Energy Florida, Inc. (Levy County Nuclear Power Plant, Units 1 and 2)

August 21, 2012.

Before Administrative Judges: Alex S. Karlin, Chairman, Dr. Anthony J. Baratta and Dr. Randall J. Charbeneau

Notice of Hearing

This Atomic Safety and Licensing Board gives notice that it will convene an evidentiary hearing with regard to a challenge by the Nuclear Information and Resource Service and the Ecology Party of Florida (Intervenors) [1] to an application by Progress Energy Florida, Inc. (PEF) to construct and operate two new nuclear power reactors in Levy County, Florida.[2] The evidentiary hearing will be held in Bronson, Florida and will commence on October 31, 2012. The hearing will concern the one admitted contention in this proceeding, Contention 4A, which is described more fully below.[3]

The evidentiary hearing will be held under the authority of the Atomic Energy Act, 42 U.S.C. 2231, 2239, and 2241. It will be conducted pursuant to the NRC hearing procedures set forth in 10 CFR Part 2, Subpart L, 10 CFR 2.1200–2.1213. During the course of this adjudicatory proceeding the Board may also hear oral arguments as provided in 10 CFR 2.331 and may hold various prehearing conferences pursuant to 10 CFR 2.329. These may be held via teleconference, video-conference, and/or in person. Except where certain legally privileged documents or testimony are being heard, all of the proceedings will be open to the public. *See* 10 CFR 2.328.

A. Matters To Be Considered

Contention 4A, as it will be litigated during the October 31, 2012 evidentiary hearing,[4] reads as follows:

The Final Environmental Impact Statement (FEIS) fails to comply with 10 CFR Part 51 and the National Environmental Policy Act because it fails to specifically and adequately address, and inappropriately characterizes as SMALL, certain direct, indirect, and cumulative impacts, onsite and offsite, of constructing and operating the proposed LNP facility:

A. Impacts to wetlands, floodplains, special aquatic sites, and other waters, associated with dewatering, specifically:

1. Impacts resulting from active and passive dewatering;

2. Impacts resulting from the connection of the site to the underlying Floridan aquifer system;

3. Impacts on Outstanding Florida Waters such as the Withlacoochee and Waccasassa Rivers;

4. Impacts on water quality and the aquatic environment due to alterations and increases in nutrient concentrations caused by the removal of water; and

5. Impacts on water quality and the aquatic environment due to increased nutrients resulting from destructive wildfires resulting from dewatering.

B. Impacts to wetlands, floodplains, special aquatic sites, and other waters, associated with salt drift and salt deposition resulting from cooling towers (that use salt water) being situated in an inland, freshwater wetland area of the LNP site.

C. As a result of the omissions and inadequacies described above, the Draft Environmental Impact Statement also failed to adequately identify, and inappropriately characterizes as SMALL, the proposed project's zone of:

1. Environmental impacts;

2. Impact on Federally listed species;

3. Irreversible and irretrievable environmental impacts; and

4. Appropriate mitigation measures.

B. Date, Time, and Location of Evidentiary Hearing

The Board will convene the evidentiary hearing on Wednesday, October 31, 2012, at 9:00 a.m. e.d.t., in the Levy County Courthouse. The courthouse is located at 355 South Court Street, Bronson, Florida. If the evidentiary hearing lasts longer than one day, we will adjourn at approximately 5:00 p.m. on October 31 and will reconvene and continue at 9:00 a.m. e.d.t. on Thursday, November 1, 2012. We anticipate that the evidentiary hearing will not take more than two days.

Members of the public and media are welcome to attend and observe the evidentiary hearing. Actual participation in the hearing will be limited to the parties and their lawyers and witnesses [5] Please be aware that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases or backpacks. No signs will be permitted in the courtroom.

C. Limited Appearance Statements

The purpose of limited appearance statements is to allow members of the public who are not parties to the adjudication to provide the Board with statements setting forth their positions or concerns on matters relating to the admitted contentions. This Board already conducted two oral limited appearance statement sessions regarding Contention 4A in Crystal River, Florida, on Thursday, January 12, 2012. *See* Tr. at 698–827, 876–927. Thus, we will not hear further oral limited appearance

[1] The Green Party of Florida was one of the original intervenors herein, but it subsequently withdrew. *See* Notice of Withdrawal (May 17, 2012).

[2] *See* Progress Energy Florida, Inc.; Application for the Levy County Nuclear Power Plant Units 1 and 2; Notice of Order, Hearing, and Opportunity To Petition for Leave To Intervene, 73 FR 74,532, 74,532 (Dec. 8, 2008).

[3] A motion to admit another contention was filed on July 9, 2012 and is currently pending. Pursuant to an order of the Commission, CLI–12–16, the Board has placed this proposed new contention in abeyance. Order (Holding Proposed New Contention in Abeyance) (Aug. 16, 2012) (unpublished).

[4] This contention has evolved during the course of this proceeding. First, the contention challenged the adequacy of the Environmental Report, a document submitted by PEF. *See* LBP–09–10, 70 NRC 51, 106 (2009). Next, the Intervenors interposed substantially the same contention challenging the adequacy of the Draft Environmental Impact Statement issued by the NRC Staff. *See* Memorandum and Order (Admitting Contention 4A) (Feb. 2, 2011) (unpublished). Finally, when the NRC Staff issued the Final Environmental Impact Statement, this same contention migrated and continued to be admitted as a challenge to the FEIS. Tr. at 856.

[5] The parties consist of the Nuclear Information and Resource Service, the Ecology Party of Florida, Progress Energy Florida, Inc., and the Staff of the Nuclear Regulatory Commission.

statements. However, the Board will continue to accept written limited appearance statements until October 24, 2012. Such written statements should be submitted in one of the following methods:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–1101 (verification (301) 415–1966).

Email: hearingdocket@nrc.gov,

In addition, using the same method of service, a copy of the written limited appearance statement should be sent to the Chairman of this Licensing Board as follows:

Mail: Alex S. Karlin, Chairman, c/o: Matthew E. Flyntz, Law Clerk, Atomic Safety and Licensing Board Panel, Mail Stop T–3 E2C, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–5599 (verification (301) 415–7405).

Email: Matthew.Flyntz@nrc.gov.

D. Availability of Documentary Information Regarding the Proceeding

Documents relating to this Atomic Safety and Licensing Board adjudicatory proceeding such as the parties' statements of position, pre-filed testimony, pre-filed evidentiary exhibits, transcripts of prior conferences and oral arguments, and copies or prior orders and rulings issued by this Board in this case, are available for public inspection at the Nuclear Regulatory Commission's "Electronic Hearing Docket" (EHD). The EHD is located at *http://adams.nrc.gov/ehd/.* Interested persons should access that Web page and click on the tab identified as "Levy_County_52–029 & 52–030–COL." The documents in that portion of the EHD will be the primary focus of the evidentiary hearing. The public should be aware that new documents are regularly added to the EHD as the parties file pleadings and the Board issues orders or notices. Therefore this Web site should be monitored regularly by interested members of the public.

In addition, the broader category of all of NRC's public documents related to PEF's application and the responses, questions, and other documents generated by the NRC Staff (such as PEF's Combined License Application and the NRC's Environmental Impact Statements) may be accessed via the publicly available records component of NRC's document system (ADAMS). ADAMS can be accessed via the NRC Web site at *http://www.nrc.gov/* and then clicking on the link specified as: "ADAMS Public Documents." Once on that page, click on the link identified as "Begin Web-Based ADAMS Search."

Persons who have difficulty in conducting useful searches in ADAMS or who otherwise encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room (PDR) reference staff by telephone at (800) 397–4209 or (301) 415–4737, or by e-mail at *pdr@nrc.gov.*

In addition, hard copies of Board orders, notices and/or memoranda are also available at the NRC PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Finally, the public is advised that the Secretary of the Commission will give notice of filings and other events in this proceeding to any member of the public who requests it.[6] *See* 10 CFR 2.315(b).

Dated: Rockville, Maryland, August 21, 2012.

For the Atomic Safety and Licensing Board.

Alex S. Karlin,

Chairman, Administrative Judge.

[FR Doc. 2012–21005 Filed 8–24–12; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. *Title and purpose of information collection:* Employer Reporting; 3220–0005.

Under Section 9 of the Railroad Retirement Act (RRA), and Section 6 of the Railroad Unemployment Insurance Act (RUIA), railroad employers are required to submit reports of employee service and compensation to the RRB as needed for administering the RRA and RUIA. To pay benefits due on a deceased employee's earnings records or determine entitlement to, and amount of annuity applied for, it is necessary at times to obtain from railroad employers current (lag) service and compensation not yet reported to the RRB through the annual reporting process. The reporting requirements are specified in 20 CFR 209.6 and 209.7. The RRB currently utilizes Form G–88A.1, Notice of Retirement and Verification of Date Last Worked, Form G–88A.2, Notice of Retirement and Request for Service Needed for Eligibility, and Form AA–12, Notice of Death and Compensation, to obtain the required lag service and related information from railroad employers. Form G–88A.1 is a computer-generated listing sent by the RRB to railroad employers and used for the specific purpose of verifying information previously provided to the RRB regarding the date last worked by an employee. If the information is correct, the employer need not reply. If the information is incorrect, the employer is asked to provide corrected information. Form G–88A.2 is used by the RRB to secure lag service and compensation information when it is needed to determine benefit eligibility. Form AA–12 obtains a report of lag service and compensation from the last railroad employer of a deceased employee. This report covers the lag period between the date of the latest record of employment processed by the RRB and the date an employee last worked, the date of death or the date the employee may have been entitled to benefits under the Social Security Act. The information is used by the RRB to determine benefits due on the deceased employee's earnings record. The RRB proposes no changes to Forms AA–12 or G–88A.2; minor editorial changes to the paper version of Form G–88A.1 and the implementation of an Internet equivalent version of Forms G–88A.1 and G–88A.2 that can be submitted through the RRB's Employer Reporting System (ERS).

In addition, 20 CFR 209.12(b) requires all railroad employers to furnish the RRB with the home addresses of all employees hired within the last year (new-hires). Form BA–6a, *Form BA–6 Address Report,* is used by the RRB to obtain home address information of employees from railroad employers who do not have the home address information computerized and who

[6] Any such request may be directed to the Secretary of the Commission by electronic mail at *hearing.docket@nrc.gov* or by telephone at (301) 415–1677.

submit the information in a paper format. The form also serves as an instruction sheet to railroad employers who can submit the information electronically by magnetic tape cartridge, CD–ROM, PC diskette, secure Email, or via ERS. The RRB proposes no changes to Form BA–6a.

Completion of the forms is mandatory. Multiple responses may be filed by respondent.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–12	60	5	5
G–88A.1	100	5	8
G–88A.1 Internet	260	4	17
G–88A.1 Internet (Class 1 railroads)	144	16	38
G–88A.2	100	5	8
G–88A.2 (Internet)	1,200	2.5	50
BA–6a Electronic Equivalent*	14	15	4
BA–6a (E-mail)	30	15	8
BA–6a (File Transfer Protocol)	10	15	3
BA–6a Internet (RR initiated)	250	17	71
BA–6a Internet (RRB initiated)	250	12	50
BA–6a Paper (RR initiated)	80	32	43
BA–6a Paper (RRB initiated)	250	32	133
Total	2,748		438

2. *Title and purpose of information collection:* Survivor Questionnaire; OMB 3220–0032.

Under Section 6 of the Railroad Retirement Act (RRA), benefits that may be due on the death of a railroad employee or a survivor annuitant include (1) a lump-sum death benefit (2) a residual lump-sum payment (3) accrued annuities due but unpaid at death, and (4) monthly survivor insurance payments. The requirements for determining the entitlement of possible beneficiaries to these benefits are prescribed in 20 CFR part 234.

When the RRB receives notification of the death of a railroad employee or survivor annuitant, an RRB field office utilizes Form RL–94–F, Survivor Questionnaire, to secure additional information from surviving relatives needed to determine if any further benefits are payable under the RRA. Completion is voluntary. One response is requested of each respondent. The RRB proposes collecting identifying information when a trustee pays the burial expenses; minor non-burden impacting clarification; and editorial changes to Form RL–94–F.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–94–F, Items 5–10, and 18	50	9	8
RL–94–F, Items 5–18	7,200	11	1,320
RL–94–F, Item 18 only	750	5	63
Total	8,000		1,391

3. *Title and purpose of information collection:* Employer's Deemed Service Month Questionnaire; OMB 3220–0156.

Section 3(i) of the Railroad Retirement Act (RRA), as amended by Public Law 98–76, provides that the Railroad Retirement Board (RRB), under certain circumstances, may deem additional months of service in cases where an employee does not actually work in every month of the year, provided the employee satisfies certain eligibility requirements, including the existence of an employment relation between the employee and his or her employer. The procedures pertaining to the deeming of additional months of service are found in the RRB's regulations at 20 CFR part 210, Creditable Railroad Service.

The RRB utilizes Form GL–99, Employer's Deemed Service Months Questionnaire, to obtain service and compensation information from railroad employers to determine if an employee can be credited with additional deemed months of railroad service.

The RRB is proposing revisions to Form GL–99 to obtain only a "Yes" or "No" response regarding whether an employee was in an employment relationship with an employer during any months indicated on the GL–99 as not worked. Other minor non-burden impacting editorial changes are also proposed. Completion is mandatory. One response is required for each RRB inquiry.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
GL–99	4,000	2	133

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*. Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2012–20980 Filed 8–24–12; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67700; File No. SR–Phlx–2012–108]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Rule 1014

August 21, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on August 13, 2012, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1014 (Obligations and Restrictions Applicable to Specialists and Registered Options Traders) to indicate that compliance with specified market making obligations pursuant to the rule will be determined on a monthly basis.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/*, 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 proposed rule change is to amend Rule 1014 to indicate that compliance with specified market making obligations pursuant to the rule will be determined on a monthly basis.

Background

Market makers on the Exchange include Registered Options Traders ("ROTs"),[3] Streaming Quote Traders ("SQTs"),[4] Remote Streaming Quote Traders ("RSQTs"),[5] specialists,[6] and Remote Specialists.[7] As set forth in Rule 1014, market makers have an obligation to make two-sided markets in products listed on the Exchange. This rule change proposal does not negate any of the general market making obligations established in Rule 1014. These Rule 1014 market making obligations continue in force. This proposal only clarifies one discreet part of Rule 1014 to make it identical to the rules of other options exchanges, as discussed below.

Market Making Obligations

Currently, Rule 1014 sets forth the market making obligations of all market makers. Sub-section (b)(ii)(D)(1) of Rule 1014 states that SQTs and RSQTs (when they do not function as Remote Specialists) shall be responsible to quote two-sided markets in not less than 60% of the series in which such SQTs or RSQTs are assigned; provided that, on any given day, a DRSQT or DSQT shall be responsible to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair. The sub-section states also that whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or DRSQT is assigned, such DSQT or DRSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Rule 1014 (b)(i).

[4] An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. *See* Rule 1014(b)(ii)(A).

[5] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. *See* Rule 1014(b)(ii)(B).

Rule 1014 also discusses other market makers including Directed SQTs and Directed RSQTs, which receive Directed Orders as defined in Rule 1080(l)(i)(A). Specialists may likewise receive Directed Orders.

[6] A member may not act as an options specialist (to include a Remote Specialist as defined in Rule 1020(a)(ii)) in any option unless such member is registered as an options specialist in such option by the Exchange pursuant to Rule 501 and such registration may be revoked or suspended at any time by the Exchange. *See* Rule 1020(a)(i).

[7] A Remote Specialist is an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501. *See* Rule 1020(a)(ii).

option listed on the Exchange minus one call-put pair. Subsection (b)(ii)(D)(2) of Rule 1014 states that a specialist (including the RSQT functioning as a Remote Specialist in particular options) shall be responsible to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such specialist is assigned. To satisfy the requirement of subsection (b)(ii)(D)(2) with respect to quoting a series, the specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.[8]

3. Determining Compliance on a Monthly Basis

Rule 1014 does not currently indicate the timeframe within which the Exchange can review whether a member has met the quoting obligations in sub-section (b)(ii)(D).[9] In contrast, NYSE Arca establishes a time period of a month to determine whether a market maker or lead market maker has met his quoting obligation, stating that compliance with the two-sided quoting obligation will be determined on a monthly basis.[10] The Exchange now proposes to insert a similar monthly time frame into its quoting rules.

Specifically, the Exchange proposes to state in sub-sections (b)(ii)(D)(1) and (b)(ii)(D)(2) of Rule 1014 that compliance with the quoting obligation will be determined on a monthly basis. The proposed language is exactly the same language used by another options exchange, NYSE Arca.[11] The proposed change puts the Exchange and its members on an equal footing with other options markets in terms of compliance with the noted quoting obligations.

The proposal ensures that compliance standards for two-sided quoting will be the same on the Exchange as on other options exchanges. The proposal does not, however, change the quoting requirements set forth in Rule 1014 or the Exchange's regulatory oversight (monitoring) of the requirements. To the contrary, subsequent to the approval of this proposal, the quoting requirements will remain and the Exchange will continue to monitor (surveil) market maker quoting behavior on a daily basis with an eye toward whether market makers meet Rule 1014 quoting requirements.[12]

While quoting will continue to be monitored daily, the Exchange believes that it is appropriate, fair and generally more efficient for the Exchange and market participants to evaluate compliance on a monthly rather than daily basis. Thus, a market maker that may have quoted less on a single day of a month may meet his overall Rule 1014 quoting obligations, and still be compliant with the Rule, by posting substantially more two-sided quotes on the other days of the month. The Exchange believes that the proposal will not diminish, and in fact may increase, market making activity on the Exchange, by establishing a quoting compliance standard that is reasonable and is already in use on other options exchanges.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of Section 6(b)(5) of the Act[14] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange would do this though a proposed rule change indicating that compliance with market making quoting obligations will be determined on a monthly basis. The specified one month review period clarifies how compliance will be monitored, which should enhance compliance efforts by market makers and the Exchange and is consistent with requirements currently in place on other exchanges.

The proposal ensures that compliance standards for two-sided quoting will be the same on the Exchange as on other options exchanges. The Exchange believes that the proposal will not diminish, and in fact may increase, market making activity on the Exchange, by establishing a quoting compliance standard that is reasonable and is already in use on other options exchanges, while continuing to monitor quoting activity on a daily basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal is pro-competitive. The proposal would enable the Exchange to provide members with rules that are similar to those of other options exchanges, and to add clarity to its rules. This should promote trading and hedging activity on the Exchange to the benefit of the Exchange, its members, and market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)[15] of the Act and Rule 19b–

[8] For all market making obligations, *see* Rule 1014(b)(ii)(D).

[9] Sub-section (b)(ii)(D) currently states, in relevant part: "In addition to the other requirements for ROTs set forth in this Rule 1014, except as provided in sub-paragraph (4) below, and except as provided in subparagraph (2) below when an RSQT functions as a Remote Specialist in particular options, an SQT and an RSQT shall be responsible to quote two-sided markets in not less than 60% of the series in which such SQT or RSQT is assigned, provided that, on any given day, a Directed SQT ("DSQT") or a Directed RSQT ("DRSQT") (as defined in Rule 1080(l)(i)(C)) shall be responsible to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair, in each case in at least 60% of the options in which such DSQT or DRSQT is assigned. Whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or DRSQT is assigned, such DSQT or DRSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. To satisfy the applicable requirements of this subparagraph (D)(1) with respect to quoting a series, an SQT, RSQT, DSQT, or DRSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. The Exchange may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances."

[10] *See* NYSE Arca Rule 6.37B. *See also* NYSE MKT (NYSE Amex) Rule 925.1NY (establishing a time period of a month to determine compliance).

[11] *Id.*

[12] On the basis of the daily monitoring activity, the Exchange will continue to have the ability to let market makers know if they are failing to achieve their quoting requirements. Moreover, on the basis of the daily monitoring activity, the Exchange can determine whether market makers violated any other Exchange rules such as, for example, Rule 707 regarding just and equitable principles of trade. Such daily monitoring will allow the Exchange to investigate unusual activity and to take appropriate regulatory action (e.g., consideration of a Rule 707 violation proceeding based on market maker stoppage of quoting and total withdrawal from the market during market disturbances).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

4(f)(6)(iii) thereunder [16] 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 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–2012–108 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–2012–108. 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 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–Phlx–2012–108 and should be submitted on or before September 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Elizabeth M. Murphy,

Secretary.

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[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67702; File No. SR–NYSEMKT–2012–43]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options LLC Limited Liability Company Agreement To Eliminate Certain Restrictions Relating to the Qualification of Founding Firm Advisory Committee Members

August 21, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 17, 2012, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options LLC ("NYSE Amex Options") Limited Liability Company Agreement ("LLC Agreement") to eliminate certain restrictions relating to the qualification of Founding Firm Advisory Committee Members. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, on the Commission's Web site at *www.sec.gov*, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the LLC Agreement to eliminate certain restrictions relating to the qualification of Founding Firm [4] Advisory Committee ("Advisory Committee") Members. The LLC Agreement is the source of NYSE Amex Options' governance and operating authority and, therefore, functions in a similar manner as articles of incorporation and by-laws function

[4] Founding Firm means each of the Initial Members (NYSE MKT, Goldman, Sachs & Co., Citadel Securities LLC, Banc of America Strategic Investments Corporation, Citigroup Financial Strategies, Inc., Datek Online Management Corp., UBS Americas Inc., and Barclays Electronic Commerce Holdings Inc.) other than NYSE MKT and any permitted transferee(s) of such Initial Member, (ii) any required transferee deemed to be a Founding Firm by the Board of NYSE Amex Options, and (iii) any other Member (a person who is a signatory to the LLC Agreement, other than NYSE Euronext, or who has been admitted to NYSE Amex Options as a Member in accordance with the LLC Agreement and has not ceased to be a Member in accordance with the LLC Agreement or for any other reason), other than NYSE MKT, deemed to be a Founding Firm by the Board of NYSE Amex Options. *See* LLC Agreement, Section 1.1.

for a corporation.[5] The Founding Firm Advisory Committee is comprised of natural persons (each, an "Advisory Committee Member") who provide advice to the Board.[6] The Board considers such advice but is not bound by it.[7]

Currently, Section 8.3(d) of the LLC Agreement provides that each Founding Firm, prior to designating an individual to the Advisory Committee, shall certify in writing to the Board that such individual is not then a director (or an alternate director or observer to the board or any committee of the board), officer, or employee of a Specified Entity;[8] in the event an individual designated to the Advisory Committee becomes a member of the board of directors or similar governing body of a Specified Entity, such individual shall immediately cease to be an Advisory Committee Member.

The Exchange proposes to amend the LLC Agreement to remove the restrictions that an individual who serves on the Advisory Committee cannot then be or later become a director (or alternate director or observer to the board or any committee of the board) of a Specified Entity.[9] The Exchange believes that the Advisory Committee should not exclude individuals with certain affiliations with Specified Entities because Advisory Committee Members have no formal authority over NYSE Amex Options and only provide non-binding advice to the Board. Moreover, the Board determines which matters are referred to the Advisory Committee and may choose, if necessary and in light of the affiliations of Advisory Committee Members, not to seek its advice on sensitive competitive issues.[10] As such, the Exchange believes that proposed rule change would not create a significant conflict of interest for Advisory Committee Members. In addition, the Exchange believes that the current restrictions unnecessarily limit the pool of qualified candidates, and the Exchange could benefit from the advice and industry knowledge provided by Advisory Committee Members that are affiliated with Specified Entities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] 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.

Specifically, the Exchange believes the proposed rule change would expand the pool of candidates eligible for membership on the Advisory Committee and thereby increase the breadth of industry knowledge that will be available to it without creating any conflicts of interest that cannot be appropriately managed, which benefits the public interest. The increased representation of different constituencies on the Advisory Committee also would foster cooperation and coordination with persons engaged in facilitating transactions in securities, contribute to the identification of opportunities for innovation, and enhance competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[13] and Rule 19b-4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6)(iii) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

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[5] See Securities Exchange Act Release No. 64144 (March 29, 2011), 76 FR 18591 (April 4, 2011) (SR–NYSEAmex-2011–18) (approving the formation of a joint venture between the Exchange, its ultimate parent NYSE Euronext, and seven other entities to operate an electronic trading facility for options contracts).

[6] See LLC Agreement, Section 8.3(a).

[7] *Id.*

[8] Specified Entity means, as of any date, (i) any U.S. securities option exchange (or facility thereof) or U.S. alternative trading system on which securities option contracts are executed (other than NYSE Amex Options or any of its Affiliates) that lists for trading any option contract that competes with a product or a contract that is contemplated by the then-current business plan of NYSE Amex Options to be listed for trading by the Exchange within ninety (90) days of such date, (ii) any person that owns or controls a U.S. securities option exchange or U.S. alternative trading system described in clause (i), and (iii) any affiliate of a person described in clause (i) or (ii) above; provided that, in the event of a change in applicable law permitting the execution of transactions in exchange-listed securities options otherwise than on a national securities exchange or facility thereof (including, but not limited to, internalization of orders for exchange-listed securities options or the execution of such orders on an alternative trading system), (x) a system operated by or on behalf of a Founding Firm or its affiliates for purposes of the internalization or crossing of: (i) Orders of customers of such Founding Firm or its affiliates, (ii) orders of such Founding Firm or its affiliates or (iii) orders routed from a retail broker-dealer or retail brokerage unit, shall not be considered a Specified Entity and (y) in addition to the matters covered in clause (x), NYSE Amex Options and the Founding Firms will negotiate in good faith the terms of an exception from the definition of Specified Entity for any alternative trading system owned solely by an individual Founding Firm or its affiliates that performs order crossing in a manner that does not substantially compete with the Exchange in terms of market share and other relevant factors. See LLC Agreement, Section 1.1.

[9] The restriction would continue to apply to officers and employees of Specified Entities.

[10] The Exchange does not propose to change the qualification for directors and alternates of the Board of NYSE Amex Options, which similarly restricts certain affiliations with Specified Entities. See LLC Agreement, Section 8.1(h).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 No. SR–NYSEMKT–2012–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEMKT–2012–43. 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEMKT–2012–43 and should be submitted on or before September 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Elizabeth M. Murphy,

Secretary.

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[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67701; File No. SR–Phlx–2012–107]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Client Information About Agency Orders of Floor Brokers

August 21, 2012.

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 10, 2012, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make it possible for the staff of Phlx to require an immediate answer to their inquiries to floor brokers for client information about the agency orders those floor brokers handle. The text of the proposed rule change is available at *http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx/*, at Phlx's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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.

[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

Phlx proposes to have the ability to require an immediate answer to its inquiries to floor brokers related to the identity of the clients behind agency orders that the floor brokers handle. The current text of the rule to be amended provides each member, member organization or associated person a timeframe of two business days to respond to the Exchange's inquiries in order for the response to be deemed as a prompt compliance. However, in the case where a floor broker receives an agency order from his client, the Exchange's regulatory staff must be able to know immediately the identity of that client when the order is subject of a complaint or otherwise requires regulatory review. Such authority is necessary in order for the Phlx regulatory staff to be able to take an action regarding concerns that stem from their observation of order handling, a complaint by a market participant, or a complaint by regulatory staff from another self-regulatory organization that is party to an information sharing agreement with Phlx. Accordingly, Phlx is proposing that the fines provided for in Option Floor Procedure F–8 will be assessed if a floor broker fails to respond immediately to a request for information about its client.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Section 6(b)(5) of the Act,[4] 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. Phlx believes that the change is necessary to give its staff the ability to provide appropriate surveillance of agency orders handled by floor brokers.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [5] and Rule 19b–4(f)(6) thereunder.[6] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6)(iii) thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–Phlx–2012–107 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–2012–107. 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2012–107 and should be submitted on or before September 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–20970 Filed 8–24–12; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(6).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 200.30–3(a)(12).

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 revisions and one extension 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 collection below is pending at SSA. SSA will submit it 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 October 26, 2012. Individuals can obtain copies of the collection instrument by writing to the above email address.

State Supplementation Provisions: Agreement; Payments—20 CFR 416.2095–416.2098, 416.2099—0960–0240. Section 1618 of the Social Security Act (Act) contains pass-along provisions of the Social Security amendments. These provisions require states that supplement Federal Supplemental Security Income payments to pass along Federal cost-of-living increases to individuals who are eligible for state supplemental payments. If a state fails to keep payments at the required level, it becomes ineligible for Medicaid reimbursement under title XIX of the

Act. SSA uses the information to determine a state's eligibility for Medicaid reimbursement. Respondents are state agencies administering supplemental programs.

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 total annual burden (hours)
Total Expenditures	7	4	60	28
Maintenance of Payment Levels	24	1	60	24
Total	31			52

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 September 26, 2012. Individuals can obtain copies of the OMB clearance packages by writing to *OPLM.RCO@ssa.gov.*

1. Request for Internet Services—Authentication; Automated Telephone Speech Technology—Knowledge-Based Authentication (RISA)—20 CFR 401.45—0960–0596. RISA, one of SSA's authentication methods, allows individuals to access their personal information through our Internet and Automated Telephone Services. SSA asks individuals and third parties who seek personal information from SSA records, or who register to participate in SSA's online business services, to provide certain identifying information. As an extra measure of protection, SSA asks requestors who use the Internet and telephone services to provide additional identifying information unique to those services so SSA can authenticate their identities before releasing personal information. The respondents are current beneficiaries who are requesting personal information from SSA, and individuals and third parties who are registering for SSA's online business services.

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)
Internet Requestors	7,929,336	1	2.5	330,389
Telephone Requestors	8,123,835	1	4.5	609,288
*Screen Splash (on hold)	1			1
Totals	16,053,172			939,678

*We are reducing the burden to a one-hour placeholder burden, because we are placing the Screen Splash application on hold.

2. Application for Special Benefits for World War II Veterans—20 CFR 408, Subparts B, C and D—0960–0615. Title VIII of the Act (Special Benefits for Certain World War II Veterans) allows qualified World War II veterans residing outside the United States to receive monthly payments. These regulations establish the requirements individuals need to qualify for and become entitled to Special Veterans Benefits (SVB). SSA uses Form SSA–2000–F6 to elicit the information we need to determine entitlement to SVB. This information collection request comprises the relevant regulations and Form SSA–2006–F6. The respondents are individuals applying for SVB under title VIII of the Act.

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)
§408.202(d); §408.210; §408.230(a); §408.305; §§408.310–.315 (SSA–2000–F6)	100	1	20	33
§408.420(a), (b)	71	1	15	18
§§408.430 & .432	66	1	30	33
§408.435(a), (b), (c)	71	1	15	18
Totals	308			102

Dated: August 22, 2012.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2012–20972 Filed 8–24–12; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0046]

Social Security Acquiescence Ruling (AR) 12–X(8); Petersen v. Astrue, 633 F.3d 633 (8th Cir. 2011); Whether a National Guard Technician Who Worked in Noncovered Employment Is Exempt From the Windfall Elimination Provision (WEP)—Title II of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: We are publishing this Social Security Acquiescence Ruling (AR) in accordance with 20 CFR 402.35(b)(2).

DATES: *Effective Date:* August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Robert Crowe, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–3155, or TTY 410–966–5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals' decision as explained in this AR to all determinations or decisions at all levels of administrative review within the Eighth Circuit. We will apply this AR to all determinations or decisions made on or after August 27, 2012. If we made a determination or decision to apply the WEP to your retirement or disability benefits between February 3, 2011, the date of the Court of Appeals' decision, and August 27, 2012, the effective date of this AR, you may request that we apply the AR to the prior determination or decision. You must show, pursuant to 20 CFR 404.985(b)(2), that applying the AR could change our prior determination or decision in your case.

In addition, when we received this precedential Court of Appeals' decision and determined that an AR might be required, we began to identify those persons within the circuit who might be subject to readjudication if we subsequently issued an AR. Because we have determined that an AR is required and are publishing this AR, we will send a notice to those individuals we have identified. In the notice, we will provide information about the AR and their right to request readjudication under the AR. However, affected individuals do not need to receive a notice in order to request that we apply this AR to our prior determination or decision, as provided in 20 CFR 404.985(b)(2).

If we later rescind this AR as obsolete, we will publish a notice in the **Federal Register** to that effect, as provided in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this AR, as provided by 20 CFR 404.985(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: August 21, 2012.

Michael J. Astrue,

Commissioner of Social Security.

Acquiescence Ruling 12–X(8)

Petersen v. *Astrue*, 633 F.3d 633 (8th Cir. 2011): Whether a National Guard Technician Who Worked in Noncovered Employment Is Exempt From the Windfall Elimination Provision (WEP)—Title II of the Social Security Act.

Issue: Whether a National Guard technician who worked in noncovered employment under the Civil Service Retirement System (CSRS) is subject to the WEP.

Statutory and Regulatory Citation: Section 215(a)(7)(A)(III) of the Social Security Act, 42 U.S.C. 415(a)(7)(A); 20 CFR 404.213(e)(9).

Circuit: Eighth (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota).

Applicability of Ruling: This ruling applies to determinations or decisions, at all levels of administrative review, i.e., initial, reconsideration, administrative law judge (ALJ) hearing, and Appeals Council.

Description of Case: Mr. Petersen was a technician with the National Guard from 1972 to 2000. The National Guard Technician Act of 1968, Pub. L. 90–486, codified at 32 U.S.C. 709, made technicians with the National Guard civil service employees of the United States Government. Some technicians, like Mr. Petersen, have "dual status" because they are not only civilian employees but also military members of the National Guard. Mr. Petersen received a civilian pension from the CSRS for his work as a National Guard technician. His work as a technician was not covered by Social Security, and Social Security taxes were not withheld from his pay. Thus, his CSRS pension is based wholly on noncovered civil service work.

Mr. Petersen applied for Social Security retirement benefits in 2006. Social Security found that he was entitled to benefits but informed Mr. Petersen that his benefit amount would be reduced in accordance with the WEP. The agency denied his request for reconsideration. He requested a hearing by an ALJ, and the ALJ found that Mr. Petersen's benefits should not be reduced because of the WEP. The Appeals Council then reviewed the ALJ's decision on its own motion and subsequently issued a decision finding that Mr. Petersen's benefits were subject to reduction under the WEP. The Appeals Council's decision was the agency's final decision.

Mr. Petersen requested judicial review of the agency's final decision in accordance with 42 U.S.C. 405(g). On February 23, 2009, the district court issued a decision finding that his benefits were not subject to the WEP because 42 U.S.C. 415(a)(7)(A)(III) exempts from the WEP those retirement payments based on service as a member of a uniformed service. The district court found that Mr. Petersen's National Guard technician service qualified him for this exception. The Government appealed the district court's decision to the United States Court of Appeals for the Eighth Circuit.

Holding

The Court of Appeals noted that "dual status" National Guard technicians must maintain military membership in the National Guard and are also required to wear their uniform, even when performing civilian technician work. The Eighth Circuit held that, as a result of "these unique National Guard technician requirements imposed upon him, Petersen performed his work 'as a member of' the Nebraska Air National Guard." Consequently, the Eighth Circuit found that Mr. Petersen qualified for the exception to the WEP for work

performed "as a member of the uniformed services."

Statement as to How Petersen Differs From the Agency's Policy

The WEP is a modified formula for calculating the retirement or disability benefits of a person who receives a pension from noncovered work (*i.e.*, work that is not defined as employment for Social Security purposes and where Social Security taxes were not deducted from the employee's pay). The WEP applies to persons who attain age 62 or become eligible for disability benefits after 1985 and who first become eligible for a monthly payment (such as a civil service pension) after 1985 "which is based in whole or in part upon his or her earnings for service which did not constitute 'employment' as defined in" 42 U.S.C. 410. 42 U.S.C. 415(a)(7)(A)(III). The WEP applies to persons with noncovered employment in the CSRS which includes the civilian employment of a "dual status" National Guard technician. A formula is used to compute the person's primary insurance amount (PIA), which then is used to compute the amount of the person's Social Security benefits. 42 U.S.C. 415(a)(7)(B); 20 CFR 404.213(c). The formula results in a lower Social Security benefit.

Congress amended the WEP in 1994 in Pub. L. 103–296, the Social Security Independence and Program Improvements Act of 1994 (the Independence Act). Section 308 of the Independence Act, codified at 42 U.S.C. 415(a)(7)(A)(III), created a new exemption from the WEP, which applies to "a payment based wholly on service as a member of a uniformed service" as defined in 42 U.S.C. 410(m). We interpret the uniformed services exception to the WEP to mean that only monthly payments based on military service are exempt from the WEP. Under this interpretation, monthly payments that are based on noncovered civilian public employment, including that of National Guard technicians who work under the CSRS, are not exempt from the WEP. Moreover, the effect of the uniformed services exception to the WEP and the regulatory provision found at 20 CFR 404.213(e)(9) is to exempt from the WEP only military retirement pay based on reserve inactive duty training (IDT). Other kinds of military duty, such as active duty, already were not subject to the WEP because they have been covered employment since 1956. The WEP does not apply to noncovered work before 1957.

The legislative history of the uniformed services exception to the WEP explains that the purpose of the exception was to exempt military retired pay, based on noncovered IDT military duty, from application of the WEP. The exception was not intended to exempt any pension based on civilian work from application of the WEP. The Court of Appeals declined to consider the legislative history of the uniformed services exception because it found there was no ambiguity to the uniformed services exception.

Explanation of How SSA Will Apply the Petersen Decision Within the Circuit

Social Security old-age or disability applicants and beneficiaries who receive a CSRS pension based on noncovered work as dual status National Guard technicians, and who are permanent legal residents of a State within the Eighth Circuit, should have their Social Security benefits computed using the normal PIA, rather than the WEP PIA described in 42 U.S.C. 415(a)(7) of the Act. A decisionmaker should not apply this AR to an applicant or beneficiary who is not a permanent legal resident of a State within the Eighth Circuit at the time of making the determination or decision to apply the WEP. Before we determine that the WEP does not apply, we must have evidence that an applicant's or beneficiary's CSRS pension is based on service as a dual status civilian technician with the National Guard.

[FR Doc. 2012–21065 Filed 8–24–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7994]

Culturally Significant Objects Imported for Exhibition Determinations: "Plants of Virtue and Rocks by a Stream" by Shitao

ACTION: Notice, correction.

SUMMARY: On August 14, 2012, notice was published on pages 48582–3 of the **Federal Register** (volume 77, number 157) of determinations made by the Department of State pertaining to the object "Plants of Virtue and Rocks by a Stream" by Shitao. The referenced notice is corrected here to change the name of the exhibition in which that object will appear to "The Artful Recluse: Painting, Poetry, and Politics in 17th-Century China".

FOR FURTHER INFORMATION CONTACT: For further information, including a listing of the exhibit object, contact Ona M. Hahs, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6473). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 21, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–21019 Filed 8–24–12; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

[Docket No. FRA 2012–0006–N–10]

Information Collection Requirements (ICRs) Forwarded to the Office of Management and Budget (OMB); Request for Comments.

AGENCY: Federal Railroad 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 Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on June 12, 2012 (77 FR 35106).

DATES: Comments must be submitted on or before September 26, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On June 12, 2012,

FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs for which the agency was seeking OMB approval. 77 FR 35106. FRA received no comments in response to this notice.

Before OMB decides whether to approve a proposed collection of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirements (ICRs) and the expected burden, and are being submitted for clearance by OMB as required by the PRA.

Title: Safety Appliance Concern Recommendation Report; Safety Appliance Standards Guidance Checklist Forms

OMB Control Number: 2130–0565

Type of Request: Extension with change of a previously approved information collection

Affected Public: 130 Federal and State Inspectors

Abstract: Sample car/locomotive inspections are performed as a courtesy to the car manufacturers to ensure that the equipment is built in accordance with all applicable Federal regulations and requirements. Car builders that desire to have FRA review their equipment for compliance with safety standards are to submit their safety appliance arrangement drawings, prints, etc., to the FRA Office of Safety Assurance and Compliance for review at least 60 days prior to construction. The sample car inspection program is designed to provide assurance that rolling stock equipment is compliant within the Code of Federal Regulations for use on the general railroad system. Although a sample car inspection is not required, most builders today request FRA to perform the inspection. The goal of the sample car inspection program is to reduce risk to railroad employees and improve passenger safety for the general public by ensuring rolling stock is fully compliant with all applicable regulations.

In an ongoing effort to conduct more thorough and more effective inspections of freight railroad equipment and to further enhance safe rail operations, FRA has developed a safety concern recommendation report form and a group of guidance checklist forms that facilitate railroad, rail car owner, and rail equipment manufacturer compliance with agency Railroad Safety Appliance Standards regulations. New form FRA F 6180.EZ is designed to reduce burden on respondents. When a request for sample car inspection incoming letter is provided by the customer, an abundant of amount of information is submitted to FRA for review that may require a formal on-site inspection. The information contained in the letter includes several paragraphs to explain the cited Code of Federal Regulations that the customer believes related to the construction of the car. Since many cars today are considered a car of special construction, the type of car to be reviewed, many times the amount of details of information are supplied to support why the customer believes the car submitted is the nearest car to construction. An abundance of factors with justification to support the car type is included in the request. Some examples would be a Logo, Company Name, and signature block, specific drawings, reflectorization, engineering information such as test or modeling of components. Also, the request may include car reporting marks, the amount of cars that would be constructed in the car series. In addition, the request would provide the location of the inspection, contact person, title, and contact information. Currently, each request is written differently, but contains most of the information to process the request to completion. The F6180.EZ Form provides specific blocks that contain a standardized format to provide specific information that is in an easy to fill-in the form arrangement. This would greatly reduce the amount of time to complete the form instead of a long form letter and additional sample car inspection request of similar car orders would be minimized by the information provided previously. By having a form of this nature, the customer will have the information visually that would be required, to eliminate the potential of missing information that then causes additional letters to complete the incoming package. FRA could potentially be able to provide a cursory review of the provided information to ensure the package is complete without having to constantly compare the request letter to the supplied documents.

The FRA region responsible for the sample car field sample car inspection is obliged to formally insect the car for compliance. All the information in the customer request is forwarded to the region for review. Once the inspection is completed, the assigned inspector provides his report in a memorandum to the MP&E Specialist. The MP&E Specialist reviews the documents and provides a memo to the Regional Administrator who sends a response by memorandum to FRA Headquarters of the finding from the field inspection. The additional memorandums would be eliminated by the F6180.4 EZ just by a grid sign-off, reducing the amount of additional paperwork and filing documents.

FRA Headquarters is responsible for gathering all the information from the request from the customer as well as assigning and forwarding the information to the Region. All the information is reviewed by the MP&E Specialist at Headquarters. The MP&E Specialist prepares a grid letter response for the MP&E Staff Director who then offers the response letter to the Director, Office of Safety Assurance and Compliance. The formal response letter is then sent to the customer through the Control Correspondence Management (CCM) system. The filing system and folders today are already large in size, and would be reduced by having a form that is on one piece of paper with all the information necessary to complete the process from the initial request for sample car inspection to the formal response letter provided.

Form Number(s): New Form FRA F 6180.4EZ; current Forms FRA 6180.4(a)–(q)

Annual Estimated Burden Hours: 244 hours

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent electronically via email to the Office of Information and Regulatory Affairs (OIRA) at the following address: *oira_submissions@omb.eop.gov*

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection;

ways to enhance the quality, utility, and clarity of the information to be collected; and 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 of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on August 21, 2012.

Rebecca Pennington,

Chief Financial Officer, Federal Railroad Administration.

[FR Doc. 2012–20989 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

AGENCY: ITS Joint Program Office, Research and Innovative Technology Administration, U.S. Department of Transportation.

ACTION: Notice.

The Intelligent Transportation Systems (ITS) Program Advisory Committee (ITS PAC) will hold a meeting by teleconference on September 11, 2012, from 1 p.m. to 2:30 p.m. (EDT).

The ITS PAC, established under Section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and re-chartered on January 23, 2012, was created to advise the Secretary of Transportation on all matters relating to the study, development, and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office, the ITS PAC makes recommendations to the Secretary regarding ITS Program needs, objectives, plans, approaches, content, and progress.

The following is a summary of the web conference tentative agenda: (1) Committee high level plan of action; and (2) Requirements for ITS Joint Program Office and external subject matter experts.

Participation in the teleconference is open to the public, but limited conference lines will be available on a first-come, first-served basis. Members of the public who wish to participate must notify Mr. Stephen Glasscock, the Committee Designated Federal Official, at (202) 366–9126 no later than September 5, 2012, at which time the teleconference phone number will be provided. Members of the public may present oral statements during the teleconference with Mr. Glasscock's approval. Persons wishing to present oral statements or obtain information should contact Mr. Glasscock.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Research and Innovative Technology Administration, ITS Joint Program Office, Attention: Stephen Glasscock, 1200 New Jersey Avenue SE., HOIT, Washington, DC 20590 or faxed to (202) 493–2027. The ITS Joint Program Office requests that written comments be submitted prior to the teleconference.

Notice of this teleconference is provided in accordance with the Federal Advisory Committee Act and the General Services Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 21st day of August 2012.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. 2012–20988 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2012–0163]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 23 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective August 27, 2012. The exemptions expire on August 27, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.

Background

On July 11, 2012, FMCSA published a notice of receipt of Federal diabetes exemption applications from 23 individuals and requested comments from the public (77 FR 40941). The public comment period closed on August 10, 2012, and no comments were received.

FMCSA has evaluated the eligibility of the 23 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A

Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 23 applicants have had ITDM over a range of 1 to 35 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the July 11, 2012, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA did not receive any comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 23 exemption applications, FMCSA exempts Randall W. Amtower (WV), Steven G. Brickey (CO), Ronald K. Coleman (KY), Randall L. Corrick (ND), Raymond G. Gravesandy (NY), John T. Green (TX), Gregory M. Harris (TX), Bryan R. Hopkins (NY), Kelly M. Keller (ND), Roger S. Kumbalek (WI), Timothy J. Loeschen (TX), Gary K. McCord (IN), Joseph L. Miska (MN), Susan L. Mosel (WI), Mark T. L. Owings (KS), Jacob D. Oxford (ID), Derek W. Palmer (MA), Robert D. Regavich (NJ), Jack W. Schlichting (MN), Lonnie H. Shere (WA), Craig A. Trimmer (OH), Lisa E. Williams (IN), and Ramon I. Zimora-Ortiz (WA) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: August 20, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–21025 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0160]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 10 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective August 27, 2012. The exemptions expire on August 27, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)-366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://*

www.regulations.gov at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Background

On June 27, 2012, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (77 FR 38381). That notice listed 10 applicants' case histories. The 10 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 10 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 10 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, and cystoidal macular edema. In most cases, their eye conditions were not recently developed. Eight of the applicants were either born with their vision impairments or have had them since childhood. The two individuals that sustained their vision conditions as adults have had them for a period of 1 to 16 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 10 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 5 to 40 years. In the past 3 years, two of the drivers were involved in crashes and none of the drivers was convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the June 27, 2012 notice (77 FR 38381).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day

by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 10 applicants, two of the drivers were involved in crashes and none was convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 10 applicants listed in the notice of June 27, 2012 (77 FR 38381).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 10 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

Based upon its evaluation of the 10 exemption applications, FMCSA exempts Kerry L. Baxter (UT), Tyrane Harper (AL), Edward C. Little (WA), John P. Loichinger (IN), Jeffrey Macysyn (IN), Peter G. Packard (NH), Raef O. Parmalee (OR), Ronald H. Sieg (MO), Ted L. Smeltzer (IN), and Gregory S. Smith (AR) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: August 20, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–21027 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2012–0215]

Pipeline Safety: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on two information collections that we will be submitting to the Office of Management and Budget (OMB) for renewal. The information collections relate to the program for Control Room Management/Human Factors and the Integrity Management Program for Gas Distribution Pipelines.

DATES: Interested persons are invited to submit comments on or before October 26, 2012.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Web Site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2012–0215, at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. You should know that 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.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: "Comments on PHMSA–2012–0215." The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies an information collection request that PHMSA will be submitting to OMB for renewal. The following information is provided for that information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. PHMSA will request a three-year term of approval for the information collection activity. PHMSA requests comments on the following information collections:

Title: Pipeline Safety: Control Room Management/Human Factors.

OMB Control Number: 2137–0624.

Current Expiration Date: 1/31/2013.

Abstract: 49 CFR 192.631 and 195.446 address human factors and other components of control room management. These regulations require operators of hazardous liquid pipelines and gas pipelines to develop and implement a human factors management plan designed to reduce risk associated with human factors in each control room.

Affected Public: Private sector; Operators of both natural gas and hazardous liquid pipeline systems.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 2,702.

Total Annual Burden Hours: 1,018,807.

Frequency of Collection: On Occasion.

Title: Integrity Management Program for Gas Distribution Pipelines.

OMB Control Number: 2137–0625.

Current Expiration Date: 1/31/2013.

Abstract: The Federal Pipeline Safety Regulations in 49 CFR, Part 192, Subpart P require operators of gas distribution pipelines to develop and implement integrity management (IM) programs. The purpose of these programs is to enhance safety by identifying and reducing pipeline integrity risks. PHMSA requires that operators maintain records demonstrating compliance with these requirements for 10 years, and that these records must include superseded IM plans.

Affected Public: Operators of gas distribution pipeline systems.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 9,343.

Total Annual Burden Hours: 865,178.

Frequency of Collection: On occasion.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on August 21, 2012.

John A. Gale,

Director, Office of Standards and Rulemaking.

[FR Doc. 2012–20935 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (VA Form 10–0529a–f)]

Agency Information Collection: Emergency Submission for OMB Review (PACT Demo Lab, Clinical Innovation Study: Implementation of a Patient Centered Medical Home for OEF/OIF Veterans With PTSD: Bridging Primary and Behavioral Health Care); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501–3521), this notice announces that the Department of Veterans Affairs (VA), will submit to the Office of Management and Budget (OMB) the following emergency proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3507(j)(1)). An emergency clearance is being requested for information needed to develop and evaluate a patient-centered model of care for OEF/OIF veterans with PTSD.

DATES: Comments must be submitted on or before September 6, 2012.

ADDRESSES: Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316 or FAX (202) 395–6974. Please refer to "2900–New (VA Form 10–0529a–f).

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7479, Fax (202) 632–7583 or email: *denise.mclamb@va.gov.* Please refer to "OMB Control No. 2900-New VA Form (10–0529a–f).

SUPPLEMENTARY INFORMATION:

Titles: PACT Demo Lab, Clinical Innovation Study: Implementation of a Patient Centered Medical Home for

OEF/OIF Veterans with PTSD: Bridging Primary and Behavioral Health Care.

a. SF 12, Questionnaire, VA Form 10–0529.

b. (Patient Health Questionnaire-9 (PHQ–9), VA Form 10–0529a.

c. PTSD Checklist (PCL), VA Form 10–0529Bb.

d. Patient Satisfaction Questionnaire-Short Form (PSQ–18), VA Form 10–0529c.

e. Combat Exposure Scale (CES), VA Form 10–0529d.

f. World Health Organization Quality of Life (WHOQOL–BREF), VA Form 10–0529e.

g. World Health Organization Disability Assessment Schedule II (WHODAS–II), VA Form 10–0529f.

OMB Control Number: 2900-New.

Type of Review: New data collection.

The data collected on VA Forms 10–0529a–f will be used to develop and evaluate a patient-centered model of care for OEF/OIF Veterans with PTSD. The forms will be used to survey the effectiveness of the patient centered medical home model by enhancing the conventional care currently provided in the care of patients with PTSD.

Affected Public: Individuals or households.

Estimated Annual Burden: 420.

Frequency of Response: Annually.

Estimated Average Burden per Respondent: 10 minutes.

Estimated Number of Respondents: 840.

Estimated Number of Responses: 2,520.

Dated: August 21, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst Director, Enterprise Records Service.

[FR Doc. 2012–20916 Filed 8–24–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (VA Form 10–0532a–k)]

Agency Information Collection: Emergency Submission for OMB Review (PACT: Clinical Innovation Study—Helping Veterans Manage Chronic Pain); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501–3521), this notice announces that the Department of Veterans Affairs (VA), will submit to the Office of Management and Budget (OMB) the following emergency proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3507(j)(1)). An emergency clearance is being requested for information needed to assess the effectiveness of pain care management provided to veterans.

DATES: Comments must be submitted on or before September 6, 2012.

ADDRESSES: Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316 or FAX (202) 395–6974. Please refer to "2900–New (VA Form 10–0532a–k).

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7479, FAX (202) 632–7583 or email: *denise.mclamb@va.gov*. Please refer to "OMB Control No. 2900-New (VA Form 10–0532a–k).

SUPPLEMENTARY INFORMATION:

Titles: Clinical Innovation Study—Helping Veterans Manage Chronic Pain

a. Pain Care Management Tracking Tool, VA Form 10–0532.

b. Pain Care Management Self Monitoring Form (unpublished), VA Form 10–0532a.

c. Pain Outcomes Questionnaire (Clark, Gironda, & Young, 2003), VA Form 10–0532b.

d. The Multidimensional Pain Inventory (MPI; Kearns, Turk, & Rudy, 1985), VA Form 10–0532c.

e. Pain Catastrophizing Scale (Osman, Barrios, Gutierrez, Kopper, Merrifield, & Grittmann, 2000), VA Form 10–0532d.

f. The Oswestry Disability Index (Fairbank & Pynsent, 2000), VA Form 10–0532e.

g. Brief Pain Inventory—Short Form (BPI; Cleeland, 1991). Administered at baseline and each follow-up, VA Form 10–0532f.

h. Fear-Avoidance Beliefs Questionnaire (FABQ; Waddell, Newton, et al., 1993), VA Form 10–0532g.

i. The Brief COPE (Carver, 1997), VA Form 10–0532h.

j. Depression and Anxiety Stress Scales (DASS–21; Lovibond & Lovibond, 1995), VA Form 10–0532i.

k. Patient Health Questionnaire (PHQ–9; Kroenke, Spitzer, & Williams, 2001), VA Form 10–0532j.

l. Generalized Anxiety Disorder (GAD–7); Spitzer, Kroenke, Williams, & Lowe, 2006), VA Form 10–0532k.

OMB Control Number: 2900-New.

Type of Review: New data collection.

Abstract: The data collected on VA Form 10–0532a–k will be used to: (1) Assess the effectiveness of patient care management (PCM) in increasing patients' functionality, improving quality of life, and improving pain control relative to usual care and (2) to assess the impact of PCM on depression and anxiety relative to usual care. This data collection's model has been designed to serve patients by augmenting existing pain management interventions (e.g., medications, physical therapy) by teaching pain care management skills that patients can incorporate into their daily activities. VA will use the information to evaluate the effectiveness of the intervention so that it can most effectively be applied to future patients with chronic pain problems.

Affected Public: Individuals or households.

Estimated Annual Burden

a. VA Form 10–0532—67 hours.
b. VA Form 10–0532a—80 hours.
c. VA Form 10–0532b—200 hours.
d. VA Form 10–0532c—80 hours.
e. VA Form 10–0532d—53 hours.
f. VA Form 10–0532e—53 hours.
g. VA Form 10–0532f—133 hours.
h. VA Form 10–0532g—19 hours.
i. VA Form 10–0532h—27 hours.
j. VA Form 10–0532i—93 hours.
k. VA Form 10–0532j— 67 hours.
l. VA Form 10–0532k—67 hours.

Estimated Average Burden per Respondent

a. VA Form 10–0532—5 minutes.
b. VA Form 10–0532a—10 minutes.
c. VA Form 10–0532b—15 minutes.
d. VA Form 10–0532c—15 minutes.
e. VA Form 10–0532d—10 minutes.
f. VA Form 10–0532e—10 minutes.
g. VA Form 10–0532f—10 minutes.
h. VA Form 10–0532g—7 minutes.
i. VA Form 10–0532h—10 minutes.
j. VA Form 10–0532i—7 minutes.
k. VA Form 10–0532j—5 minutes.
l. VA Form 10–0532k—5 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents

a. VA Form 10–0532—800.
b. VA Form 10–0532a—480.
c. VA Form 10–0532b—800.
d. VA Form 10–0532c—320.
e. VA Form 10–0532d—320.
f. VA Form 10–0532e—320.
g. VA Form 10–0532f—800.

h. VA Form 10–0532g—160.
i. VA Form 10–0532h—160.
j. VA Form 10–0532i—800.
k. VA Form 10–0532j—800.
l. VA Form 10–0532k—800.

Dated: August 21, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst Director, Enterprise Records Service.

[FR Doc. 2012–20917 Filed 8–24–12; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 648

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Framework Adjustment 6 and Specifications and Management Measures; Final Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120307159–2329–01]

RIN 0648–BB99

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Framework Adjustment 6

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

ACTION: Final rule.

SUMMARY: NMFS is modifying the Mid-Atlantic Fishery Management Council's risk policy regarding stocks without an overfishing limit. Framework Adjustment 6 was initiated by the Mid-Atlantic Fishery Management Council in order to clarify its tolerance for risk for such stocks. The modification will allow increases of the acceptable biological catch for stocks that have stable or increasing trends in abundance, and for which there is robust scientific information to suggest that an increased acceptable biological catch will not lead to overfishing.

DATES: Effective on August 24, 2012.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Supplemental Environmental Assessment (EA) and the Regulatory Impact Review (RIR), for Framework Adjustment 6, and the Omnibus Annual Catch Limits and Accountability Measure Amendment EA/RIR, are available from: John K. Bullard, Northeast Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–281–9195, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a proposed rule for Framework Adjustment 6 on June 28, 2012 (77 FR 38566). Additional background information and detail on why and how Framework Adjustment 6 was developed are included in the proposed rule, and are not repeated here. The Council established acceptable biological catch (ABC) control rules (implementing regulations at 50 CFR 648.20) and a risk policy (§ 648.21) to guide the Council's Scientific and Statistical Committee (SSC) in its ABC setting process for all Council fishery management plans (FMPs) in the recently implemented Omnibus Amendment for Annual Catch Limits and Accountability Measures (October 31, 2011; 76 FR 60606). The Council's original risk policy did not permit increases to the ABC for stocks that lack an overfishing limit (OFL) derived either from the stock assessment, or through the SSC ABC recommendation process. Framework Adjustment 6 modifies the risk policy regarding stocks without an OFL or OFL proxy to allow the SSC to recommend increases to the ABC for stocks that have stable or increasing trends in abundance, and for which the SSC can point to robust scientific information to suggest that an increased ABC will not lead to overfishing. The adjustment to this policy does not change the Council's approach to stocks without an OFL that have declining biomass, or for which the SSC cannot point to scientific evidence to suggest that the recommended ABC will not result in overfishing.

Though this action only modifies the MSB FMP, the adjusted risk policy applies to all of the Council's managed species, including Atlantic mackerel, butterfish, Atlantic bluefish, spiny dogfish, summer flounder, scup, black sea bass, Atlantic surfclam, ocean quahog, and tilefish. The regulations for the ABC control rules and risk policy reside in the MSB FMP, but are a product of the Omnibus Amendment, which affected all of the FMPs for the above-listed species. The provisions in the Omnibus Amendment, including the risk policy, do not apply to longfin squid or *Illex* squid; these species are exempt from these requirements because they have a life cycle of less than 1 year. It is only necessary to complete this action as a framework adjustment to the MSB FMP because the ABC control rules and risk policy are incorporated by reference into the regulations for all other Council species.

Comments and Responses

NMFS received a total of four comments on the proposed rule for Framework Adjustment 6 from: Lund's Fisheries, Inc., a processing facility in Cape May, NJ; the Garden State Seafood Association (GSSA), a New Jersey-based commercial fishing industry group; the Herring Alliance, which represents 52 organizations concerned about the status of the Atlantic Coast's forage fish; and the Natural Resources Defense Council (NRDC).

Comment 1: Lund's Fisheries, Inc., and GSSA supported Framework Adjustment 6. They noted that this action will clearly define the Council's risk policy and retain the integrity of the SSC scientific review process, while providing the SSC with the needed flexibility to set ABCs in data-poor situations. GSSA noted that the SSC should be allowed to analyze and use all available scientific data when recommending ABC, and should not be constrained because no OFL can be derived. Lund's Fisheries, Inc., and GSSA supported the requirement that the SSC must justify its decision by providing a description of why the increase is warranted, how it arrived at the increase, and certify why overfishing will not occur. Lund's Fisheries, Inc., asserted that, under these strict requirements, any fear that the SSC would greatly inflate the ABC without scientific justification is unwarranted.

Response: NMFS agrees that it is the Council's prerogative to define its risk policy to communicate its tolerance for risk in ABC recommendations to the SSC, provided that its risk policy complies with the Magnuson-Stevens Act. The Council's revisions to the risk policy do comply with the Magnuson-Stevens Act because the SSC is still confined to specific criteria in setting an ABC that does not pose the risk of overfishing for a given stock. Further, the Council and NMFS will review SSC ABC recommendations to ensure that the revised risk policy is applied appropriately.

Comment 2: The Herring Alliance and NRDC urged NMFS to disapprove Framework Adjustment 6. They noted that the Council is proposing a significant modification to its risk policy that would sanction a more risk-prone approach to managing stocks lacking an OFL. Further, the Herring Alliance argued that the proposed changes to the risk policy would nullify the policy for Level 4 stocks (those stocks with the lowest certainty in scientific information), leaving those species vulnerable to overfishing, which is incongruous with the objectives of the Omnibus Amendment, the National Standard 1 guidelines, and the Magnuson-Stevens Act.

Response: The adjustment would only allow increases for Level 4 stocks that have had stable or increasing trends in abundance, and stocks for which the SSC could certify that its ABC recommendation is not likely to result in overfishing. NMFS disagrees that the adjustment to this policy would nullify the risk policy for all Level 4 stock. Framework Adjustment 6 does not

change the Council's approach to stocks without an OFL/OFL proxy that have evidence of biomass declines or for which the SSC cannot point to scientific evidence to suggest that the recommended ABC will not result in overfishing.

Neither the Magnuson-Stevens Act nor the National Standard 1 guidelines have language prohibiting increases in ABC in the absence of an OFL. The National Standard 1 guidelines do advise that, when possible, the determination of an ABC should be based on the probability that an actual catch equal to the stock's ABC would result in overfishing (see § 600.310(f)(4)), but make no mention of how a Council should proceed when it is not possible to establish an OFL or OFL proxy. Each Council may determine the acceptable level of risk of overfishing (which overall must be below 50 percent, according to Magnuson-Stevens Act; § 600.310(f)(4)). In this case, the Council is further defining its risk tolerance for certain stocks without an OFL or OFL proxy.

Comment 3: Lund's Fisheries, Inc., commented that the application of this policy as it pertains to the final 2012 butterfish specifications is urgent. It urged NMFS to immediately publish a final rule implementing Framework 6 and waive the delay in effectiveness so that the final 2012 butterfish specifications can be published prior to the start of the Trimester III longfin squid fishery. It argued that a delay in publication would result in negative economic impacts to the squid fishery, and that a waiver would not pose any threat to overfishing the butterfish resource.

Response: NMFS agrees that the approval of Framework 6 has immediate implications for the longfin squid fishery, but clarifies that, regardless of the immediate implications of this action, the revisions to the risk policy will apply to all Council-managed species that may lack an OFL in the future. NMFS published a proposed rule (October 26, 2011; 76 FR 66260) with the Council's original 2012 butterfish ABC recommendation (3,622 mt) because, in the absence of the risk policy, the SSC's advice to increase the butterfish ABC (from 1,811 mt in 2011) was otherwise well justified (see response to Comment 6). A comment on the proposed rule pointed out that increases to the butterfish ABC were prohibited by the Council's risk policy, and we addressed this inconsistency by publishing the status quo specification in an interim final rule (March 21, 2012; 77 FR 16472). In response to our interim final rule for butterfish, the Council initiated Framework 6 to revise its risk policy for all Council-managed species. The timing of Framework 6 coincides with the start of Trimester III for longfin squid (September 1–December 31), which, under the existing butterfish specifications, would not open because the total annual butterfish mortality cap on the longfin squid fishery (1,436 mt) has been attained. Framework 6 provides the authority to implement the Council's original 2012 recommendation for butterfish specifications in a final rule, which could allow the Trimester III longfin squid fishery to open on schedule by increasing the butterfish mortality cap (to 2,445 mt).

Comment 4: The Herring Alliance argued that Framework 6 was developed solely as a result of the first application of the risk policy to the 2012 butterfish specifications. It asserted that NMFS should not approve a rushed Council decision solely on a single ABC specification experience. It commented that, rather than bypassing its own policy, the Council should work to develop OFLs for all Level 4 stocks in order to set ABCs that comply with the current risk policy, as the SSC did for butterfish for the 2013 fishing year. It noted that, in order for the SSC to certify that an ABC will not lead to overfishing, it will need to perform an analysis of all relevant scientific information about the status of the stock to determine whether quota increases will lead to overfishing. It argues that this level of analysis is equivalent to the development of an OFL proxy.

Response: NMFS reiterates that the adjustment to the risk policy in Framework 6 applies to all of the Council's managed species. While the process to initiate the change was started in response to the 2012 specifications experience with butterfish, the Council worked to devise a revision to the risk policy that would allow the SSC to use all available information when making ABC recommendations for any situation where a Council-managed species does not have an OFL available from the assessment.

The SSC has noted its preference to have an OFL estimate that is based on the assessment, which takes into account all information about population dynamics that is available at the time (see Framework Adjustment 6 discussion at April 2012 Council meeting). It noted that, rather than deriving an OFL proxy when an OFL is unavailable from the assessment, its preference is to simply set an ABC that it believes would not lead to overfishing based on all other available evidence. NMFS agrees that this approach is valid, provided that sufficient scientific evidence is presented in the SSC's deliberations to suggest that its recommendation will not result in overfishing of the stock in question. As further support for this approach, the National Standard 1 guidelines at § 600.310(f)(3) note that while NMFS expects that in most cases a recommended ABC should be reduced from the OFL to reduce the probability of overfishing, the ABC may be set equal to the OFL. Again, NMFS expect the SSC and the Council to present very strong justification for such cases (§ 600.310(f)(5)).

Comment 5: The NRDC asserted that ad hoc approaches to developing ABC recommendations that have not been vetted by independent experts lack transparency and rigorous independent evaluation, and thus do not represent the best available scientific information. The NRDC asserted that is especially the case given that more rigorous methods for estimating reference points for data-poor stocks are available. It noted that the SSC's ABC recommendations for the 2012 and 2013 specifications are prime examples of the dangers of ad hoc decision making. The NRDC commented that the Council and NMFS should adopt a policy with specific criteria and characteristics for which methods are acceptable for determining OFLs or OFL proxies for data-limited stocks.

Response: The SSC is expected to conduct its ABC recommendation process in an open, transparent public forum and to provide detailed documentation for the Council and public that provides the information considered, the approaches taken, and why the recommended ABC is consistent with the best available scientific information. Thus, provided that the SSC can demonstrate that the method that it uses for a given stock is defensible and will not result in overfishing for the stock in question, NMFS does not believe that it is necessary to define a list of criteria or characteristics of methods that are acceptable for determining OFLs or OFL proxies for data-limited stocks.

Comment 6: The NRDC criticized the SSC's recommended butterfish ABCs for both the 2012 and 2013 fishing years. It noted that the SSC doubled the 2012 ABC based on a NOAA Technical Memorandum used to set ABCs for stocks that only have reliable catch information, but did not apply the recommended methodology in the memorandum properly, and the SSC's subsequent reaffirmation of their 2012 ABC recommendation under the provisions in Framework 6. It also

criticized the SSC's butterfish ABC recommendation for the 2013 fishing year. Further, it noted that the change in the risk policy being proposed in Framework Adjustment 6 would encourage more of this type of rushed decision making, which will in turn increase the risk of overfishing for the stocks with the greatest uncertainty regarding stock status and productivity.

In contrast, Lund's Fisheries, Inc., and GSSA supported the Council's 2012 butterfish recommendations. They noted that any increases in butterfish catch would be expected to be very small relative to the actual increase in butterfish abundance. They also asserted that the chances of overfishing the butterfish resource under the modest quota increases initially proposed by the Council and NMFS in the proposed rule for 2012 butterfish specifications are, by SSC estimates, extremely low.

Response: NMFS does not believe that Framework 6 will lead to rushed decision making. Again, the SSC is still confined to a specific set of criteria in setting an ABC that does not pose the risk of overfishing for a given stock. The final implementation of specifications for Council-managed species is the culmination of a lengthy process that involves input from the SSC, the Council, the Northeast Fisheries Science Center, and NMFS policy staff. The Council may recommend a more conservative ABC than that recommended by the SSC if it feels that the SSC's recommendation does not adequately safeguard against overfishing. Further, NMFS can implement alternative specifications, should our review determine that the Council's recommendation is out of compliance with National Standard 1.

NMFS notes that the merits of the SSC's ABC recommendations for the 2012 and 2013 fishing years are not the subject of this rulemaking, but offers some discussion of these issues because of their relevance to Framework 6. With regard to the SSC's 2012 ABC recommendation, the NRDC references NOAA Technical Memorandum NMFS–SEFSC–616 (Calculating Acceptable Biological Catch for Stocks that have Reliable Catch Data Only (Only Reliable Catch Stocks—ORCS; 2011)). The memorandum was developed by a Working Group comprised of representatives from seven of the eight SSCs, five of the six NMFS Science Centers, NMFS Headquarters, academic institutions, a state agency, and a non-governmental organization to offer guidance that can be used to set ABCs for stocks that only have reliable catch data, are lightly fished, and appear to have stable or increasing trends. The SSC noted that the butterfish stock met the criteria outlined for this approach, and relied on the concepts in this guidance document in developing its ABC recommendation. The report recommends doubling catch during a stable period to create an OFL, setting the ABC at 50 to 90 percent of the OFL, and then tracking the stock to see how the adjusted catch levels affect abundance. During its public process, the SSC discussed that, given that butterfish fishing mortality was likely contributing very little to changes in stock abundance, the ABC could be doubled and still yield a fishing mortality rate that would not affect stock size. The SSC also commented during Council deliberations that establishing an OFL or OFL proxy would not have changed its ABC recommendation for 2012. NMFS considered the SSC's rationale for increasing the butterfish ABC and found it to be appropriate and well supported by the best available scientific information. The SSC was guided by NOAA Technical Memorandum NMFS–SEFSC–616, and used its scientific judgment to recommend an ABC that was expected to result in a level of fishing mortality documented in SAW 49, and, as noted by the SSC, was not expected to result in overfishing of the butterfish resource.

NMFS notes that, since the initiation of Framework Adjustment 6, the SSC reaffirmed its original 2012 butterfish ABC recommendation of 3,622 mt (originally recommended in May 2011) at their May 2012 meeting in accordance with the provisions in Framework Adjustment 6, and the Council reaffirmed their original suite of recommended specifications (originally recommended in June 2011) at its June 2012 meeting. As noted in the response to Comment 3, NMFS will publish a rule to finalize butterfish specifications shortly.

Comments on the Council's 2013 specifications recommendations will be addressed in the 2013 specifications process. The SSC recommended a 2013 butterfish ABC to the Council at its May 2012 meeting, and the Council adopted the SSC's recommendation, along with butterfish specifications and management measures, at its June 2012 meeting. The Council is finalizing its recommendation, which will be submitted to NMFS for review and rulemaking. NMFS clarifies that the SSC did not rely on the provisions in Framework Adjustment 6 for its 2013 butterfish ABC recommendation because it was able to develop an OFL proxy during its deliberations.

Comment 7: The Herring Alliance argued that such a regressive change to the risk policy requires full consideration through an FMP amendment, rather than through a framework adjustment. It noted that the Omnibus Amendment clearly specifies that any significant changes are not appropriate under the limited public process of a framework adjustment. The Herring Alliance acknowledged that the Omnibus Amendment does allow for changes to a limited list of its provisions through the framework adjustment process, but claims that changes to the risk policy are not included in that list for any of the Council-managed species. The Herring Alliance argued that the adjustment to the risk policy proposed in Framework Adjustment 6 is an entirely new concept that was not previously contemplated by the Council, and that the proposed deviation to the risk policy is different from the provisions already in place for the Council to deviate from the ABC control rules. It claimed that, since the proposed changes to risk policy are a complete reversal of the Council's original guidance for Level 4 stocks, it cannot be characterized as a minor adjustment.

Response: This action does not introduce a new concept, and is not a significant departure from the Council's existing risk policy, but rather a clarification of the Council's intent regarding stocks with increasing trends for which an OFL cannot be established. Similar discussion regarding departure from the Council's established ABC control rules is included in the NS1 Guidelines (§ 600.310(f)(3)) and in the ABC control rule regulations at § 648.20. The Council felt that the flexibility provided to the SSC in the ABC control rules was in conflict with the lack of flexibility in its existing risk policy. Because the risk policy and ABC control rules are meant to work in concert, the Council initiated Framework Adjustment 6 to perfect and clarify its guidance to the SSC.

Framework Adjustment 6 does not change the Council's approach for all Level 4 stocks, and only allows the SSC to recommend ABC increases for Level 4 stocks under very limited circumstances. Stocks without an OFL or OFL proxy that have evidence of biomass declines or for which the SSC cannot point to scientific evidence to suggest that the recommended ABC will not result in overfishing will still be bound by the original risk policy.

Adjustments to the existing Council risk policy can be addressed through the framework process for all Council-managed species (see § 648.25(a)(1) for

mackerel and butterfish; § 648.79(a)(1) for surfclam and ocean quahog; § 648.110(a)(1) for summer flounder; § 648.130(a)(1) for scup; § 648.149(a)(1) for black sea bass; § 648.167(a)(1) for bluefish; § 648.239(a)(1) for spiny dogfish; and § 648.299(a)(1)(x) for tilefish). Given that the adjustment will only apply in limited circumstances, and given that no other provisions of the Omnibus Amendment are altered by this action, this change is minor enough to have been addressed in a framework adjustment rather than through a plan amendment. The analytical requirements to complete this action as a framework adjustment or an amendment are the same, and the Council prepared the necessary analytical requirements for this action in the form of a Supplemental Environmental Assessment. The primary difference is the amount of time that it takes to complete an amendment as compared to a framework adjustment. The Council process for this framework adjustment was completed over two Council meetings (February 2012 and April 2012). In contrast, an amendment would take several additional months for completion. The public was provided the required notice for Council meetings for this framework adjustment, and the meetings were open to public participation and offered the public sufficient opportunity to comment on the measures being considered. Finally, this framework adjustment underwent the proposed and final rulemaking processes to allow the public additional opportunity to comment.

Classification

The Administrator, Northeast Region, NMFS, determined that this framework adjustment to the Atlantic Mackerel, Squid, and Butterfish; Atlantic Bluefish; Spiny Dogfish; Summer Flounder, Scup, and Black Sea Bass; Surfclam and Ocean Quahog; and Tilefish FMPs is necessary for the conservation and management of the Atlantic mackerel, butterfish, Atlantic bluefish, spiny dogfish, summer flounder, scup, black sea bass, surfclam, ocean quahog, and tilefish fisheries and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA, finds good cause under section 553(d) of the Administrative Procedure Act to waive the 30-day delay in effectiveness for this action because delaying the effectiveness of this rule would be contrary to the public interest. Immediate implementation of Framework Adjustment 6 will allow for the increase in the butterfish mortality cap on the longfin squid fishery to 2,445 mt (a 1,009-mt increase from status quo) through the implementation of the final 2012 butterfish specifications. The Council initiated process for Framework Adjustment 6 at its February 2012 meeting, which was the first Council meeting after it realized that its risk policy may need further clarification with respect to stocks without an overfishing limit. The timeline that this action has followed has been the fastest possible given statutory requirements, and happens to coincide with the start of Trimester III for longfin squid. By the time the longfin squid fishery closed on July 10, 2012, in Trimester II, over 100 percent of the status quo annual allocation of the butterfish mortality cap was estimated to have been taken. Because the butterfish mortality cap closes the longfin squid fishery in Trimester III when 90 percent of the annual butterfish cap allocation has been taken, under the status quo allocation, the longfin squid fishery would not be opened at the start of Trimester III on September 1, 2012. The increased butterfish mortality cap implemented through the final 2012 butterfish specifications will allow for the longfin squid fishery to operate during Trimester III. Longfin squid migrate throughout their range and have sporadic availability. The fleet is quick to target longfin squid aggregations when they do appear, and is capable of landing over 550 mt in a single week. Analysis of this year's fishing activity indicates that longfin squid was particularly abundant this spring and summer, and historical availability patterns suggest that longfin squid abundance could still be high in the early fall. Only 7,761 mt of the 22,220 mt longfin squid quota has been harvested this year, meaning that well over half of the quota remains to be harvested during the final 4 months of the fishing year. A 30-day delay in the implementation of this rulemaking, and thus a delay in the implementation of the final 2012 butterfish specifications, may prevent fishermen from accessing longfin squid when it is temporarily available within portions of its range and prevent the harvest of a significant amount of longfin squid quota (up to 2,220 mt of the remaining 14,459 mt of longfin squid quota), negating any benefit of implementing this rule.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 21, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, Performing the Functions and Duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.21, paragraph (d) is revised to read as follows:

§ 648.21 Mid-Atlantic Fishery Management Council risk policy.

* * * * *

(d) *Stock without an OFL or OFL proxy.* (1) If an OFL cannot be determined from the stock assessment, or if a proxy is not provided by the SSC during the ABC recommendation process, ABC levels may not be increased until such time that an OFL has been identified.

(2) The SSC may deviate from paragraph (d)(1) of this section, provided that the following two criteria are met: Biomass-based reference points indicate that the stock is greater than B_{MSY} and stock biomass is stable or increasing, or if biomass based reference points are not available, best available science indicates that stock biomass is stable or increasing; and the SSC provides a determination that, based on best available science, the recommended increase to the ABC is not expected to result in overfishing. Any such deviation must include a description of why the increase is warranted, description of the methods used to derive the alternative ABC, and a certification that the ABC is not likely to result in overfishing on the stock.

[FR Doc. 2012–21058 Filed 8–24–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110707371–2346–03]

RIN 0648–BB28

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS is implementing final 2012 specifications and management measures for the butterfish fishery, which is managed as part of the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. This action requires a 3-inch (76-mm) minimum codend mesh size in order to possess more than 2,000 lb (0.9 mt) of butterfish (up from 1,000 lb (0.45mt)). These specifications and management measures promote the utilization and conservation of the butterfish resource.

DATES: Effective on August 24, 2012.

ADDRESSES: Copies of the 2012 specifications document, including the Environmental Assessment (EA), is available from John K. Bullard, Northeast Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. This document is also accessible via the Internet at *http://www.nero.noaa.gov*. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of this rule. Copies of the FRFA and the Small Entity Compliance Guide are available from: Daniel S. Morris, Acting Regional Administrator, National Marine Fisheries Service, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2276, or via the Internet at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–281–9195, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 2011, NMFS published a proposed rule (76 FR 66260) that included the Mid-Atlantic Fishery Management Council's (Council) preferred butterfish specifications. Though an overfishing limit (OFL) was not able to be established for butterfish based on the most recent butterfish assessment, the Council's preferred specifications would have doubled the butterfish acceptable biological catch (ABC) for fishing year 2012 over the status quo level (to 3,622 mt). A public comment on the proposed rule submitted by the Herring Alliance, an environmental group that represents 52 organizations concerned about the status of the Atlantic coast's forage fish, accurately stated that the proposed increase to the butterfish ABC is prohibited by the Council's former risk policy. That policy, at 50 CFR 648.21(d), states: "If an OFL cannot be determined from the stock assessment, or if a proxy is not provided by the Scientific and Statistical Committee (SSC) during the ABC recommendation process, ABC levels may not be increased until such time that an OFL has been identified." To remedy this situation, NMFS published an interim final rule for butterfish specifications (March 21, 2012; 77 FR 16472) that temporarily reinstated the status quo butterfish specifications (1,811 mt ABC; 1,630 mt ACT; 500 mt domestic annual harvest (DAH) and domestic annual processing (DAP); 1,436 mt butterfish mortality cap) and allowed for public comment.

The interim final rule was published to address the procedural impediment to finalizing the original proposed butterfish specification identified in the comment noted above. This action finalizes the interim rule. Because NMFS already proposed the specifications and management measures contained in this final rule at the initial proposed rule stage, and the public already had an opportunity to comment on the proposed specifications (October 26, 2011; 76 FR 66260), there is no need to re-propose these final specifications. NMFS used the interim final rule to accept comments on the lower specification, but also responded to comments on the higher proposed specification in the interim final rule (March 21, 2012; 77 FR 16472). Comments on the interim final rule are addressed in the Comments and Responses section of this rule.

Since the publication of the interim final rule for butterfish specifications, the Council recommended, and NMFS has approved, Framework Adjustment 6 (Framework 6) to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. Framework 6 adjusts the Council's risk policy to allow the SSC to propose ABC increases for stocks that have stable or increasing trends in abundance, and for which there is robust scientific information to suggest that an increased ABC will not lead to overfishing. In accordance with the adjustments in Framework 6, the SSC reaffirmed its original 2012 butterfish ABC recommendation of 3,622 mt (initially recommended at the SSC's May 2011 meeting to recommend 2012 butterfish specifications) at its May 2012 meeting.

Following the SSC's reaffirmation of the 2012 butterfish specifications, the Council reaffirmed its original suite of recommended specifications at its June 2012 meeting. Therefore, this action now sets butterfish specifications in accordance with the Council's original recommendation for the remainder of the 2012 fishing year (until December 31, 2012). The butterfish ABC and ACL are specified at 3,622 mt, and the ACL is specified at 3,260 mt (reduced 10 percent from ACL). This action allocates ⅔ of butterfish catch (based on the 1999–2008 average) as discards, and maintains the allocation of 15 mt for Research Set-Aside (RSA) specified in the interim final butterfish specifications (March 21, 2012; 77 FR 16472), which results in a DAH and DAP of 1,072 mt (3,260 mt minus 2,173 mt discards minus 15 mt RSA). The total allowable level of foreign fishing (TALFF) for butterfish is only specified to address bycatch by foreign fleets targeting mackerel TALFF. Because there was no mackerel TALFF specified in the final 2012 specifications for mackerel, butterfish TALFF is also set at zero.

TABLE 1—FINAL SPECIFICATIONS, IN METRIC TONS (MT), FOR BUTTERFISH FOR THE 2012 FISHING YEAR

Specifications	Butterfish
OFL	Unknown.
ABC	3,622.
ACL	3,622.
ACT	3,260.
RSA	15.
DAH/DAP	1,072.
JVP	0.
TALFF	0.
Butterfish Mortality Cap	2,445.

The butterfish mortality cap in the longfin squid fishery is specified at 2,445 mt (75 percent of 3,260 mt). If the butterfish mortality cap is harvested during Trimester I (January-April) or Trimester III (September-December), the directed longfin squid fishery will close for the remainder of that trimester.

The 2012 butterfish mortality cap is allocated by Trimester as follows:

TABLE 2—TRIMESTER ALLOCATION OF BUTTERFISH MORTALITY CAP ON THE LONGFIN SQUID FISHERY FOR 2012

Trimester	Percent	Metric tons
I (Jan–Apr)	65	1,589.25
II (May–Aug)	3.3	80.69
III (Sep–Dec)	31.7	775.06
Total	100	2,445

Finally, this action implements a 3-inch (76-mm) minimum codend mesh size requirement for vessels possessing 2,000 lb (0.9 mt) or more of butterfish (up from 1,000 lb (0.45 mt) in 2011), in order to allow more butterfish that otherwise would have been discarded to be landed.

In its reaffirmation of its recommended 2012 butterfish ABC of 3,622 mt, the SSC also noted that the rationale for the 2013 butterfish ABC recommendation provides additional support for its 2012 butterfish ABC recommendation. The SSC's final butterfish ABC recommendation for 2013 is 8,400 mt, based on an OFL proxy of 16,800 mt. A detailed summary of the SSC's rationale for its 2013 butterfish ABC recommendation is available in its May 2012 Report (available, along with other materials from the SSC discussion, at: *http://www.mafmc.org/meeting_materials/SSC/2012-05/SSC_2012_05.htm*), and will be discussed in the documentation for the 2013 MSB specifications recommendations. It is summarized below because of its relevance to the SSC's reaffirmation of its 2012 butterfish ABC recommendation.

Because of the uncertainty in the most recent butterfish stock assessment, on April 6, 2012, the Council requested that NMFS Northeast Fisheries Science Center (NEFSC) offer additional analysis of the butterfish stock to aid the SSC in the ABC setting process for the 2013 fishing year. The NEFSC analysis (May 2, 2012, also available with the SSC meeting report) applied ranges of a number of different factors (such as natural mortality and survey catchability) to develop a range of likely stock biomasses that would be consistent with recent survey results and observed butterfish catch. The NEFSC also examined a range of fishing mortalities that would result from these biomass estimates. The SSC used the NEFSC analysis, along with guidance (Patterson, 1992) that suggests maintaining a natural mortality/fishing mortality ratio of 67 percent for small pelagic species, to develop a proxy OFL for butterfish. Consistent with the 2010 butterfish assessment, the SSC assumed a high level of natural morality (M = 0.8) and applied the 67-percent ratio to result in a fishing mortality of F = 0.536, which the SSC used as a proxy maximum fishing mortality rate threshold for butterfish. In the NEFSC analysis, a catch of 16,800 mt would only lead to fishing mortality rates higher than F = 0.536 (i.e., rates consistent with overfishing based on the maximum fishing mortality rate threshold proxy) under very extreme assumptions. The SSC therefore adopted 16,800 mt as a proxy OFL.

The SSC buffered the proxy OFL by 50 percent to reach the butterfish ABC of 8,400 mt. Its justification for this buffer noted that the short life history of butterfish gives limited time for management to respond to adverse patterns, that recruitment of butterfish is highly variable and uncertain, that the stock status of butterfish is unknown, and that butterfish are susceptible to environmental and ecosystem variability, in particular inter-annual variability in natural mortality.

Comments and Responses

Five comments were submitted on the interim final butterfish specifications from: Seafreeze, Ltd. (Seafreeze), a frozen seafood producer based in Rhode Island; Dr. Joel Jay Sohn, a research associate at Harvard University; the Garden State Seafood Association (GSSA), an industry group representing members of the commercial fishing industry in New Jersey; the Herring Alliance, which represents 52 organizations concerned about the status of the Atlantic Coast's forage fish; and one member of the public.

Comments on the Specifications

Comment 1: Seafreeze noted that NMFS stated in the request for comments that all comments received are part of the public record and will generally be posted in the **Federal Register** without change. It noted that this had not been done for the comments received on either 2011 or 2012 MSB specifications, and speculated that this may be because NMFS did not want the public to see the comments. They also stated that we did not fully answer their comments.

Response: NMFS' requests for comment state that comments are part of the public record and will generally be posted to *http://www.regulations.gov*, not the **Federal Register**, without change. This was done for the Seafreeze comments on both the 2011 and 2012 specifications. It is never our practice to reprint full comment letters in the **Federal Register**. NMFS has not, and does not, "hide" comments from the public. The commenter's submission focused primarily on the merits of the two most recent butterfish stock assessments. As noted below, comments on the merits of stock assessments are not generally addressed in the response to comment.

Comment 2: GSSA maintained its support for the Council's original butterfish specification recommendation (ABC = 3,622 mt; ACT = 3,260 mt; DAH and DAP = 1,087 mt; butterfish cap = 2,445 mt). It noted that recent trawl survey information, and information from the 49th Stock Assessment Workshop (SAW 49), suggest that fishing mortality is low, and therefore support the increase.

Response: This action implements the Council's original preferred recommendations.

Comment 3: The Herring Alliance supported NMFS' disapproval of the Council's proposed 2012 specifications and implementation of status quo specifications. It stated that the Council's proposed catch limits are inconsistent with the regulations implementing the Omnibus Amendment.

Response: NMFS agrees that the Council's initially proposed 2012 specifications were inconsistent with the Council's risk policy as implemented through the Omnibus ACL/AM Amendment (76 FR 60606, September 29, 2011), and so NMFS implemented the status quo (2011) specifications in an interim final rule for the beginning of the 2012 fishing year. The revised Risk Policy in Framework Adjustment 6 to the MSB FMP allows the SSC to recommend increases to the ABC for stocks without an OFL, provided that there is sufficient scientific evidence to suggest that such increases will not result in overfishing. Based on the new Risk Policy, the SSC has since reaffirmed its 2012 butterfish specifications recommendation in accordance with the new provisions in Framework Adjustment 6, which was recently approved by NMFS, and this action promulgates the Council's original specifications recommendations.

Comment 4: Seafreeze disagreed with the determination that we are risking overfishing of the butterfish resource because no OFL has been determined.

Response: The butterfish quota was maintained at status quo because an increase was prohibited by the regulations, not because NMFS determined that the stock was at risk of overfishing due to the lack of an established OFL. The Council's Risk Policy at the time it recommended 2012

butterfish specifications did not permit the SSC to recommend increases to the ABC for stocks for which an OFL could not be determined. As discussed above, the Council has since adjusted the risk policy in Framework Adjustment 6 to the MSB FMP. The adjustments to the risk policy allow the SSC to recommend ABC increases for stocks without an OFL under certain limited circumstances, such as for butterfish, where the SSC can present information that suggests that stock abundance is stable or increasing, and information that supports its finding that increases in ABC are unlikely to result in overfishing.

Comment 5: Seafreeze claimed that scientists and managers have cited recent low butterfish landings as an indication that the butterfish stock must be in trouble. It claimed that this rationale creates a vicious cycle that has been used to make decisions to keep quotas low.

Response: Butterfish landings have never been used on their own as the rationale for the butterfish quotas that were set from 2005 to 2011. The quotas were initially lowered in 2005 to discourage a directed fishery after NMFS notified the Council that the butterfish stock was overfished based on the 2004 assessment. Past landings information is a single component within the suite of information used to make decisions about future landings levels. Among other things, the SSC considers information from recent assessments and survey indices when making ABC recommendations

Comment 6: Dr. Sohn commented that the certification by the SSC that the best available science was employed in its butterfish ABC recommendation to the Council is a self-certification of the SSC's ABC development process.

Response: NMFS disagrees. In our view, the SSC's agreement that the best available science was used indicates its approval of the peer-review process. That fact that the independent peer-reviewers at SAW 49 proposed no radically different model for butterfish stock status determinations demonstrates that little can be done at this time to reduce the uncertainty in stock biomass estimates.

Comment 7: Dr. Sohn stated that the conclusion from the assessment that "butterfish populations appear to be declining over time" is untrue. He noted that evidence demonstrates that butterfish populations increase and decrease over time, and that currently NMFS surveys and all other long-term surveys indicate a period of increasing abundance.

Response: The butterfish population decline was noted by all independent reviewers of the SAW 49 butterfish assessment. The recent increase in survey trends occurred after the 2009 assessment. NMFS notes that the SSC analyzed additional information from 2010 and 2011 to reach its recommendation for the 2012 fishing year; specifically, a recommended doubling of the 2011 ABC recommendation.

Comment 8: The Herring Alliance was disappointed that NMFS did not respond to its claim that the Council's ABC recommendation of 3,622 mt was not 100-percent supported by the scientific analyses, including the technical report cited by the SSC, and is therefore inconsistent with National Standard 2. It claimed the record shows that the Council's original recommendation of 3,622 mt was not based on the best available scientific information. It noted that the SSC doubled the ABC based on a NOAA Technical Memorandum used to set ABCs for stocks that only have reliable catch information, but did not apply the recommended methodology in the memorandum in any rigorous way. The Herring Alliance also asserted that other rationale for the increase cited by the SSC and NMFS, namely that there were anecdotal observations of increased butterfish abundance, and that fishing mortality appears low compared to natural mortality, cannot be supported by best available science.

Response: At the time of the proposed rule for 2012 specifications, NMFS determined that the SSC provided appropriate scientific justification for its recommended doubling of the butterfish ABC. The SSC relied on the findings of the most recent butterfish assessment, SAW 49, in conjunction with information form Council staff, to inform its final ABC recommendation. SAW 49 determined that the butterfish stock has a high natural mortality rate (M = 0.8) and a low fishing mortality rate (F = 0.02), and concluded that environmental factors, rather than fishing mortality, are driving stock abundance. The SSC also considered recent trawl survey indices, which indicate that butterfish abundance is stable or increasing.

The Herring Alliance referenced NOAA Technical Memorandum NMFS–SEFSC–616 (Calculating Acceptable Biological Catch for Stocks That Have Reliable Catch Data Only (Only Reliable Catch Stocks—ORCS; 2011)). The memorandum was developed by a Working Group comprised of representatives from seven of the eight SSCs, five of the six NMFS Science Centers, NMFS Headquarters, academic institutions, a state agency, and a non-governmental organization, to offer guidance which can be used to set ABCs for stocks that only have reliable catch data, are lightly fished, and appear to have stable or increasing trends. The SSC noted that the butterfish stock met the criteria outlined for this approach, and relied on the concepts in this guidance document in developing its ABC recommendation. The report recommends doubling catch during a stable period to create an OFL, setting the ABC at 50 to 90 percent of the OFL, and then tracking the stock to see how the adjusted catch levels affect abundance. During its public process, the SSC discussed that, because butterfish fishing mortality was likely contributing very little to changes in stock abundance, the ABC could be doubled and still yield a fishing mortality rate that would not affect stock size. The SSC also commented during Council deliberations that establishing an OFL or OFL proxy would not have changed its ABC recommendation for 2012. NMFS considered the SSC's rational for increasing the butterfish ABC and found it to be appropriate and well supported by the best available scientific information. Though the SSC used the guidance in NOAA Technical Memorandum NMFS–SEFSC–616, it used its scientific judgment to recommend an ABC that was expected to result in a level of fishing mortality documented in SAW 49, and, at the time of NMFS's initial proposed rule, was not expected to result in overfishing of the butterfish resource.

The observation that natural mortality is much higher than fishing mortality is not used as a justification for increasing catch levels; it is offered in SAW 49 as part of the determination that fishing mortality does not appear to be the major driving factor determining butterfish stock size, and that other environmental factors are the primary drivers of butterfish abundance levels. The relative contribution of fishing mortality compared to natural mortality is well documented in SAW 49. The anecdotal observations of increased butterfish abundance provided by the fishing industry were not noted as a basis for the decision, but were offered as part of the fishery performance reports generated during the Council's specification process. Observations from the fishing industry are often used to contextualize the scientific information being considered by SSC members.

NMFS still supports the rationale that the SSC put forward in recommending the 3,622-mt ABC for butterfish during

its initial deliberations for 2012 specifications. The SSC has also conducted deliberations for its 2013 butterfish ABC recommendation, and offered additional rationale in its 2013 ABC recommendation that supports the assertion that the 3,622-mt butterfish ABC will not result in overfishing. Their rationale for their recommended 2013 ABC (8,400 mt) is outlined in the Background section of the preamble to this action. Given that the additional analysis that the SSC used to derive its 2013 ABC recommendation of 8,400 mt suggests that this level has a low likelihood of resulting in overfishing, it is reasonable to conclude that ABCs of lower amounts, such as the 3,622-mt ABC that will be implemented in this action, will be unlikely to result in overfishing.

Comment 9: The Herring Alliance commented on the proposed rule and on the interim final rule for butterfish specifications that the role of butterfish as forage should have been taken into account in setting the butterfish ABC. It noted that the National Standard 1 guidelines specify that managers must pay serious attention to maintaining adequate forage for all components of the ecosystem, and that the FMP's specification of optimum yield (OY) must address ecological factors, even where quantification of ecological factors is not available. It reiterated that marine predators switch prey depending on the relative abundance and distribution of forage species, and concluded that, because the status of stocks such as Atlantic herring blueback herring, alewife, American shad, hickory shad, and Atlantic menhaden are compromised, a lack of precautionary protection for butterfish may render these stocks more vulnerable to collapse. Likewise, it also argued that, should predators switch to butterfish because of low availability of other forage species, the Council's high butterfish ABC recommendation could lead to collapse of the butterfish stock.

Response: As noted in the response to comments in the interim final rule for butterfish specifications, the impacts of natural mortality on the butterfish stock, including predation, are taken into account during the butterfish assessment process, and are addressed during the specification of the ABC. The assessment does not consider potential future increases or decreases in butterfish predation because information is not available on future trends in forage.

As noted by the commenter, National Standard 1 of the Magnuson-Stevens Act discusses the specification of OY, and requires that an FMP or amendment prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the United States fishing industry (16 U.S.C. 1851(a)(1)). The Magnuson-Stevens Act defines "optimum" with respect to yield from a fishery, as being prescribed on the basis of maximum sustainable yield from the fishery, as reduced by relevant economic, social or ecological factors (16 U.S.C. 1802(33)). The Council's FMPs all contain a process for assessing, specifying, identifying, and adjusting OY, as needed, based on relevant economic, social, and ecological factors for each species. The guidelines state that achieving OY on a continuing basis means producing a long-term series of catches such that the average catch is equal to OY and other conservation objectives of the Magnuson-Stevens Act are met (§ 600.310(e)(3)(i)(B)). The guidelines further state that an FMP must contain measures, including ACLs and AMs, to achieve OY on a continuing basis. However, the Magnuson-Stevens Act and guidelines do not require that OY considerations be addressed when developing ACLs. The implementing regulations for the Council's Omnibus Amendment require that the ACL be set equal to the ABC for all Council-managed species, but the Council may take these additional factors into account when establishing ACTs (see final NS1 guidelines, 74 FR 3178, 3189 (explaining OY, ABC, ACT, ACL relationships in response 33)).

Comment 10: One member of the public commented that butterfish quotas should be cut to save the species, and that this comment should not be dismissed by NMFS. This commenter also stated that NMFS has no clear, accurate information.

Response: The quota levels recommended by the Council and implemented through this final rule are based on the best available science, and was reviewed twice by the Council's SSC. The SSC is a Magnuson-Stevens Act-mandated Council body made up of independent scientists, which recommends the ABC levels for all fisheries. NMFS notes that the commenter made general allegations for which no supporting documentation was provided. NMFS encourages every commenter to provide documentation or specific references to reports or data to support statements and conclusions submitted in response to rulemaking and to enable the agency to be more specific in its responses.

Comment 11: Dr. Sohn urged the Secretary of Commerce to reject the Council's butterfish quota recommendations because they are based upon invalid scientific reasoning and methodology, and urged an orderly process of re-examination of the data and methodology used to assess butterfish so that the recommendations are based upon scientifically valid assumptions and methods.

Response: A benchmark butterfish assessment is scheduled for 2013. In the meantime, the current specification recommendations for butterfish are based on the best available scientific information. Further comments on the current butterfish assessment are addressed below.

Comment 12: Dr. Sohn discouraged the adoption of short-term rules to govern butterfish harvest. He argued that, by adopting short-term rules, previous scientific and management errors will be perpetuated.

Response: The commenter does not explain what he considers to be a "short-term" rule. The Council typically recommends specifications for butterfish for 1 fishing year (January 1–December 31), but may set specifications for up to 3 years for any of the species managed under the MSB FMP. The Council recommended butterfish specifications for 1 fishing year during the 2012 specifications process.

Comment 13: Seafreeze expressed its view that butterfish needs to be turned into export revenue and jobs rather than being discarded.

Response: Not all unharvested fish constitute foregone yield, as these animals serve as prey for other fishery stocks. Hence, fishery yields for predator species can theoretically improve when a very high quota for butterfish is reduced.

Comments on the Butterfish Assessment

In addition to comments on the regulatory content of this rulemaking, Seafreeze, and Dr. Sohn commented extensively on the butterfish stock assessment. NMFS does not typically respond in detail to comments on the merits of the assessment in the response to comments in rulemaking. This is because assessments are conducted and finalized prior to and separate from rulemakings, and feature their own process for public participation procedures. Comments on the merits of an assessment, and the information used in the assessment, can therefore not be addressed during the rulemaking process, but rather need to be addressed in the assessment process. Given the nature of the comments on the interim final rule for butterfish specifications, NMFS recognizes that commenters are making a direct link between the merits of the butterfish assessment and our approval of the Council's recommended

butterfish specifications as being supported by the best available scientific information. Although the assessment and its supporting information are not subject to NMFS' decision making in the specifications, responses to specific comments on the assessment are provided in the following to clarify our position on these matters.

Comment 14: Seafreeze noted that the assessment of fish stocks is an imprecise science and will remain so as long as we use a handful of fish to estimate the full size of a given fish stock, or until we count every fish in the ocean.

Response: We agree that there is uncertainty in fish stock assessments. However, even if all of the fish in the stock were counted, there would still be uncertainty in the size of the stock in the future, given a specified quota. We assess stocks based on data gathered from thousands of fish, not just handfuls, taken in the course of NEFSC (and other) fishery-independent surveys, as well as samples gathered directly from fishing vessels. Although some uncertainty is inherent in estimates of relative abundance, this uncertainty typically decreases with increased sampling whether these data are collected by scientists, fishery observers, or port samplers.

Comment 15: Dr. Sohn noted that the failure of the assessment process for butterfish has produced incorrect management decisions that stretch back to butterfish being listed as overfished in 2004. He implied that the failure of the butterfish assessment process is the result of a willful and deliberate misrepresentation of information on the part of NMFS.

Response: The unique life history of butterfish poses significant and well-documented challenges for assessing the status of the resource and for management. The assessment process includes detailed discussion of this issue and the Council process utilizes and accounts for the uncertainty in the assessments by establishing butterfish management policies and measures through review and recommendations of its SSC. Responses to specific assessment issues below offer more explanation of the butterfish assessment.

Comment 16: Seafreeze claimed that the butterfish stock is assessed in the same way that assessments are done for cod. It noted that stock assessments are usually 5–7 years old by the time they are used for quota setting and that, given that butterfish have a 1.5-year lifespan, 3–4 generation-old information is being used to set annual quotas for butterfish. It compared this to using 30 to 40-year-old data for setting the annual quota for cod, which have a 10-year lifespan. Dr. Sohn also asserted that the use of "old" data means that NMFS will fail to conserve a resource when needed, and fail to open a fishery for harvest when the resource has recovered.

Response: Cod and butterfish are assessed using different methods. The assessment model for the cod stocks is completely age-structured, for instance. Because there are not sufficient data to use an age-structured model for butterfish at this time, the butterfish assessment uses a delay-difference model, in which several assumptions are made on the way these fish grow and transition from the younger group (fish that are too small to enter the fishery) and the older mature group (in which all the fish are available to the fishery). If sufficient data are eventually available, an age-structured model can be applied to butterfish because the same fundamental processes of mortality, growth, spawning, and recruitment occur. The important distinction is the very different parameters governing the dynamics of cod and butterfish. Although more real-time collection of data might be useful for estimating the status of the butterfish stock throughout the year, for a recruitment-driven stock such as butterfish there will always be much uncertainty when attempting to predict what state the stock will be in during the next year.

Comment 17: Seafreeze expressed a lack of confidence in efforts to calibrate the FSV *Bigelow* to the RV *Albatross IV* and noted that it is likely impossible to mathematically calculate how the species captured in each tow will differ between vessels, especially if the vessels use different tow speeds and haul times.

Response: Estimating the relative capture efficiency at length for butterfish taken by the FSV *Bigelow* and RV *Albatross IV* is not easy. This is why external peer reviews were conducted of both the experimental design and estimation methodology of the vessel calibration experiment. It is also true that, for a given tow, a prediction of relative efficiency will be imprecise. Precision becomes much better for predicting the average relative efficiency over all tows in the calibration study, which is the procedure NMFS used to calibrate the surveys of the two vessels. This gain in precision occurs because the average becomes less variable as the number of tows used for inference increases. When conducting these analyses, we do not dictate the way that various changes in towing affect the relative efficiency of the two vessels. Instead, we allow this effect to be estimated from the data.

Comment 18: Seafreeze claimed that the recent high abundance of butterfish (as documented in East Coast state and university surveys, recent NEFSC surveys, data from nuclear plants, and other sources) has been explained away by citing the calibration factors between the FSV *Bigelow* to the RV *Albatross IV*.

Response: NMFS disagrees. The calibrated time series still shows this increase.

Comment 19: Dr. Sohn claimed that NMFS has refused to acknowledge that the peer review process has rejected the assessment for butterfish.

Response: NMFS acknowledges that the peer review results indicated that the fishing mortality level identified in the assessment may not be appropriate and that a stock biomass level could be determined. This is why there are no acceptable biological reference points for this stock.

Comment 20: Dr. Sohn asserted that NMFS has not been inclusive in its performance with respect to its assessment of butterfish, that NMFS has not sought advice widely, and that NMFS has not captured the full range of scientific thoughts and opinions on this subject matter. He noted that the assessment process has not been set up to work with its stakeholders in gathering information in a scientific fashion in order to assist in the assessment.

Response: In fishery assessments, we strive to account for a range of biological and ecosystem characteristics, to improve our results, and to bound them by explicitly identifying and considering underlying uncertainties. The scientific review process used in the Northeast for developing fishery stock assessments is public and transparent, and one of the most rigorous review processes of its kind in the United States. The assessment process used in the Northeast comprises a series of working group meetings that are open to the public. Scientists from industry, NGOs, academic institutions, and state governments regularly participate in these meetings, during which the working group comes to consensus on the data and models to be used to assess the stock. The primary goal of these meetings is to develop a scientifically defensible assessment that is vetted and subjected to independent, arms-length peer-review (by reviewers obtained through the Center for Independent Experts) at the final Stock Assessment Review Committee (SARC) meeting.

Comment 21: Dr. Sohn stated that assessments are not done in a timely

fashion so that rational management can take place.

Response: NMFS acknowledges that assessments are conducted within many constraints. Some of these constraints are not commonly in play in other areas of scientific research. Examples include deadlines that are driven by pending management events, the availability of scientific staff to analyze data and conduct the work within those deadlines, and the reliance of fishery managers on scientific information to inform their decisions. Assessments also involve continual evaluation and re-evaluation. New data are constantly arriving from multiple sources including monitoring by researchers and fishery observers, and reporting by fishing vessels and fish dealers.

Comment 22: Dr. Sohn noted that ocean larval transport from the southern end of the butterfish population range (north of Cape Hatteras) to the northern end of its range may have an important role in the population dynamics of butterfish. The commenter cited a number of scientific studies that demonstrate that, for various species, larvae produced in one area may be the foundation for populations of adult fish in another area. He argued that, by limiting the assessment to the northern portion of the range of butterfish, NMFS is not measuring abundance in the area that may produce the butterfish of the mid- and North Atlantic. The commenter asserted that NMFS has limited its survey to a political boundary rather than a biological boundary, and thus has no data on important butterfish breeding grounds. He concluded by noting that a zoogeographical ecosystem-based model of the butterfish population should be done for butterfish, and that the failure to incorporate new technology and theory is the result of NMFS ignoring important scientific issues in the assessment process.

Response: The studies cited by the commenter do not analyze data on butterfish, but simply suggest that this transport might apply to butterfish. There is some movement of butterfish across the Cape Hatteras latitude. However, this occurs for any species over any specified stock boundary. For butterfish, there is no evidence that the degree of mixing is substantial. As spawning occurs north of the Cape Hatteras latitude, any larvae transported north of that latitude would only provide some fraction of the population. Overall levels of annual recruitment can still be estimated without knowing the mechanism that determines the proportion of recruitment from the southern stock area. Nonetheless, these issues, as well as a larval abundance index for butterfish, will be considered in the 2013 benchmark butterfish assessment.

There will be a series of public meetings to determine the data and model used in the benchmark butterfish assessment, and commenters are welcome to attend. Also underway are projects to determine ways in which measures of habitat association by butterfish might be incorporated into the next assessment model. Zoogeographical ecosystem-based models would be ideal for all species but, to the best of our knowledge, there are no stocks anywhere that are assessed using such a spatially-detailed model. The absence of such models reflects the real data limitations and our inability to parameterize such a complex model, rather than a naïve understanding of the species biology. While an enormous amount of information on the demography of butterfish is considered in the assessment, the rapid growth and short lifespan of butterfish, as well as other limitations, such as poor discard estimate precision, contribute to the poor precision of butterfish spawning biomass estimates. We are confident that the new comprehensive study will improve our knowledge of the butterfish population, and help NMFS and the Council in future population estimates.

Comment 23: Dr. Sohn stated that the 2004 and 2009 assessments for butterfish failed because they used a mathematical model that assumes equilibrium conditions.

Response: Equilibrium (as used by the commenter) is an attribute of deterministic models, in which every set of variable states in the model are uniquely determined by parameters in the model and by sets of previous states of these variables. Deterministic models perform the same way for a given set of initial conditions. Because of the variability surrounding many of the parameters in models created for stock assessments, deterministic models, and deterministic equilibrium does not apply to any stock. Rather, stochastic or probabilistic models, in which randomness is present and variable states are not described by unique values, but rather by probability distributions, are used to for stock assessments. There can be a stochastic equilibrium, which is the average behavior of a stochastic model; this is how stock assessment scientists view fish populations. Reference points are determined under stochastic (probabilistic) conditions, and then uncertainty in the reference points caused by this stochasticity is considered.

Comment 24: Dr. Sohn commented that the claims that NMFS makes concerning the decrease of the butterfish population are the result of numbers and biomass caught during the NMFS spring and fall surveys. He noted that, while NMFS prides itself on the survey, it has destroyed continuity by not paying sufficient attention to ensure consistent sampling. He further discussed that the use of calibration techniques appears to provide ad hoc remedies that can never be tested as to their confidence.

Response: The use of calibration factors is well founded in the literature and their estimation for transitioning the survey from the RV *Albatross IV* to the FSV *Bigelow* was based on rigorous statistical analysis. Therefore, the results are not *ad hoc*. The precision of the calculated confidence intervals for the FSV *Bigelow*-RV *Albatross IV* calibration factors is publicly available, and this uncertainty has been accounted for in calibrating butterfish indices from 2009 onward. NMFS does not currently consider the stock to be declining, nor has it been since 2008. The two NEFSC documents cited explain the careful attention paid to ensuring reliable transition of the survey from the RV *Albatross IV* to the FSV *Bigelow*. Fishing industry members were very involved in the design of the new trawl, and the gear comparison experiment was one of the most extensive ever performed in terms of numbers of replicates in space and time.

Comment 25: Dr. Sohn commented that NMFS failed to check its trawl survey results against independent data sets or long-term state surveys. He claimed that NMFS has found excuses not to "go outside" of their own data sets to examine butterfish abundance, believing that these are too local or not long-term. The commenter noted that we should know butterfish abundance, and that the fact that we do not know is because NMFS is not using all of the available data.

Response: State survey data are reviewed at the data meeting for a benchmark assessment. For butterfish, only the Massachusetts inshore and Connecticut Long Island Sound surveys were readily available. These data were reviewed, but not used in the assessment for several reasons. The state surveys cover only a very limited portion of the butterfish stock area. There are no age data associated with the samples. Age data are needed to distinguish the two age groups used in the model for the 2010 butterfish assessment. For the Long Island Sound survey annual indices, there were no associated measures of uncertainty.

Regardless, using all state and other regional survey indices does not allow one to estimate absolute abundance.

Comment 26: Dr. Sohn claimed that NMFS does not critically evaluate the methodology it uses for stock assessments.

Response: NMFS disagrees. The SARC process provides significant critical evaluation of assessment models by independent peer-reviewers.

Classification

The Administrator, Northeast Region, NMFS, determined that these specifications are necessary for the conservation and management of the butterfish fishery and that they are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA, finds good cause under section 553(d) of the Administrative Procedure Act to waive the 30-day delay in effectiveness for this action because delaying the effectiveness of this rule would be contrary to the public interest.

Immediately implementing the final 2012 butterfish specifications will not only benefit the butterfish fishery directly, it will also aid the longfin squid fishery because the rule will increase the butterfish mortality cap in that fishery to 2,445 mt (a 1,009-mt increase from status quo). By the time the longfin squid fishery closed on July 10, 2012, in Trimester II, over 100 percent of the status quo annual allocation of the butterfish mortality cap was estimated to have been taken. Because the butterfish mortality cap closes the longfin squid fishery in Trimester III when 90 percent of the annual butterfish cap allocation has been taken, under the status quo allocation, the longfin squid fishery would not be opened at the start of Trimester III on September 1, 2012. The increased butterfish mortality cap implemented through the final 2012 butterfish specifications will allow for the longfin squid fishery to operate during Trimester III. Longfin squid migrate throughout their range and have sporadic availability. The fleet is quick to target longfin squid aggregations when they do appear, and is capable of landing over 550 mt in a single week. Analysis of this year's fishing activity indicates that longfin squid was particularly abundant this spring and summer, and historical availability patterns suggest that longfin squid abundance could still be high in the early fall. Only 7,761 mt of the 22,220 mt longfin squid quota has been harvested this year, meaning that well over half of the quota remains to be harvested during the final 4 months of the fishing year. A 30-day delay in the implementation of this rulemaking, may prevent fishermen from accessing longfin squid when it is temporarily available within portions of its range and prevent the harvest of a significant amount of longfin squid quota (up to 2,220 mt of the remaining 14,459 mt of longfin squid quota), negating any benefit of implementing this rule.

Moreover, the fishing entities affected by this rule need not change their practice or gear, or make any other modifications to come into compliance with this action. They can continue to fish as they do now without any change after this rule goes into effect. Accordingly, the 30-day delay in effectiveness is not necessary here, where there is no need for the affected entities to modify their behavior, purchase new gear, or otherwise adjust their activities to come into compliance with the rule.

The Council prepared an EA for the 2012 specifications, and the NOAA Assistant Administrator for Fisheries concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available upon request (see **ADDRESSES**).

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

NMFS, pursuant to section 604 of the Regulatory Flexibility Act, has prepared a FRFA in support of the 2012 specifications and management measures. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summaries in the IRFA, a summary of the significant issues raised by the public in response to the IRFA, and NMFS's responses to those comments. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

Statement of Need for This Action

This action implements 2012 specifications for butterfish and adjusts the gear requirements for the butterfish fishery. A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, are contained in the preamble to the proposed and final rules and are not repeated here.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

Comment 13 was not specifically directed to the IRFA, but expressed concern about negative economic impacts of the specifications for butterfish on small entities. The comment is fully described in the "Comments and Responses" section of the preamble to this final rule and, therefore, is not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Based on permit data for 2011, the numbers of potential fishing vessels in the 2012 MSB fisheries are as follows: 351 longfin squid/butterfish moratorium permits; 1,904 incidental squid/butterfish permits; and 831 MSB party/charter permits. Many vessels participate in more than one of these fisheries; therefore, permit numbers are not additive. Small businesses operating in commercial and recreational (i.e., party and charter vessel operations) fisheries have been defined by the Small Business Administration as firms with gross revenues of up to $4.0 and $6.5 million, respectively. There are no large entities participating in this fishery, as that term is defined in section 601 of the RFA. Therefore, there are no disproportionate economic impacts on small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. In addition, there are no Federal rules that duplicate, overlap, or conflict with this final rule.

Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impacts on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

Actions Implemented With the Final Rule

The butterfish DAH specified in this action (1,072 mt) represents a 114-percent increase over the 2011 DAH (500 mt). Though there has not been a directed butterfish fishery in recent years due to market conditions, the butterfish DAH was exceeded during the 2010 and 2011 fishing years. The increase in the DAH has the potential to increase revenue for permitted vessels.

The adjustment to the gear requirement for the butterfish fishery, which requires vessels possessing 2,000 lb (0.9 mt) or more of butterfish to fish with a 3-inch (76-mm) minimum codend mesh, is expected to result in a modest increase in revenue for fishery participants. This adjustment will enable additional retention of butterfish by vessels using small-mesh fishing gear. Previously, the mesh size requirement applied to vessels possessing 1,000 lb (0.45 mt) or more of butterfish.

As discussed in the FRFA for MSB Amendment 10 (75 FR 11441; March 11, 2010), the butterfish mortality cap may potentially economically impact fishery participants. The longfin squid fishery closes during Trimesters I and III if the butterfish mortality cap is reached. If the longfin squid fishery is closed in response to butterfish catch before the entire longfin squid quota is harvested, then the fishery may lose revenue. The potential for longfin squid revenue loss depends upon the size of the butterfish mortality cap. The 2012 butterfish mortality cap of 2,445 mt specified in this action represents a 70-percent increase over status quo (1,436 mt). The 2011 butterfish mortality cap did not result in a closure of the longfin squid fishery in Trimester I. At the start of Trimester III, over 55 percent of the butterfish mortality cap (compared to 31.7 percent allocated at the start of the fishing year) was available for the longfin squid fishery for the duration of the fishing year. The status quo butterfish mortality cap was implemented in the interim final butterfish specifications during Trimester I of the 2012 fishing year, and did result in a closure of the longfin squid fishery. In addition, at the time of publication of this action, the butterfish cap has already exceeded the Trimester III closure threshold, meaning that the lower status quo cap would not allow the longfin squid fishery to reopen during Trimester III. Given that the lower cap constrained the longfin squid fishery in 2012, it is reasonable to expect that the proposed increase to the cap may provide for additional fishing opportunities for the longfin squid fishery between the implementation of this rule and the end of the 2012 fishing year on December 31, 2012. For that reason, additional revenue losses are not expected as a result of this proposed action.

Alternatives to the Actions in the Final Rule for Butterfish

There were six alternatives to the preferred action for butterfish that were not selected. The first (status quo) and second non-selected alternatives were based on the specifications structure that existed prior to the implementation of the Omnibus Amendment, and were not selected because they no longer comply with the MSB FMP. The third alternative (least restrictive) would have set the ABC and ACL at 4,528 mt, the ACT at 4,075 mt, the DAH and DAP at 1,358 mt, and the butterfish mortality cap at 3,056 mt. The fourth alternative would have set the ABC and ACL at 2,717 mt, the ACT at 2,445 mt, the DAH and DAP at 815 mt, and the butterfish mortality cap at 1,834 mt. These two alternatives were not selected because they were all inconsistent with the ABC recommended by the SSC. The fifth non-selected alternative would have set ABC and ACL at 1,811 mt, the ACT at 1,630 mt, the DAH and DAP at 543 mt, and the butterfish mortality cap at 1,222 mt. This alternative was not selected because it is inconsistent with status quo. The sixth alternative was the modified status quo alternative that was implemented in the interim final butterfish specifications.

There were two alternatives regarding the adjustment to the butterfish gear requirement. The status quo alternative requires vessels possessing 1,000 lb (0.45 mt) or more of butterfish to fish with a 3-inch (76-mm) minimum codend mesh. The selected alternative (3-inch (76-mm) mesh to possess 2,000 lb (0.9 mt)) could create some additional revenue in the form of butterfish landings for vessels using mesh sizes smaller than 3 inches (76 mm).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 21, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.23, paragraph (a)(1) is revised to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a) * * *

(1) *Butterfish fishery.* Owners or operators of otter trawl vessels possessing 2,000 lb (0.9 mt) or more of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (76 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

* * * * *

[FR Doc. 2012–21060 Filed 8–24–12; 8:45 am]

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H.R. 1402/P.L. 112–170
To authorize the Architect of the Capitol to establish battery recharging stations for privately owned vehicles in parking areas under the jurisdiction of the House of Representatives at no net cost to the Federal Government. (Aug. 16, 2012; 126 Stat. 1303)

H.R. 3670/P.L. 112–171
To require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act. (Aug. 16, 2012; 126 Stat. 1306)

H.R. 4240/P.L. 112–172
Ambassador James R. Lilley and Congressman Stephen J. Solarz North Korea Human Rights Reauthorization Act of 2012 (Aug. 16, 2012; 126 Stat. 1307)

S. 3510/P.L. 112–173
To prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes. (Aug. 16, 2012; 126 Stat. 1310)

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